EXHIBIT 153

AFFIDAVIT OF DENNIS E. HANSEN IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT CASE 0:12-cv-02899-DWF-TNL Doc. 236-50 Filed 08/21/15 Page 2 of 172

UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Select Comfort Corporation; and Select Comfort SC Corporation,

Court File No. 12-cv-2899-DWF-SER

Plaintiffs,

V

AFFIDAVIT OF HAL PORET

John Baxter; Dires, LLC d/b/a Personal Touch Beds and Personal Comfort Beds; Digi Craft Agency, LLC; Direct Commerce, LLC d/b/a Personal Touch Beds; Scott Stenzel; and Craig Miller,

Defendants.

STATE OF NEW YORK) ss.
COUNTY OF New York)

- I, Hal Poret, being first duly sworn upon oath, states:
- 1. I am the Senior Vice President at ORC International. I was hired by Plaintiffs as an expert witness in this litigation. I have submitted an expert report and have provided deposition testimony regarding that report. I have personal knowledge of the facts set forth in this affidavit and in my expert report, and, if called on as a witness, I could and would competently testify as to the facts set forth therein.
- 2. Attached hereto as **Exhibit A** is a true and correct copy of my expert report submitted in this litigation and dated April 20, 2015. If called on as a witness, I could and would competently testify consistent with the statements and conclusions set forth therein and consistent with the testimony set forth in my deposition regarding the report.

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FURTHER AFFIANT SAYETH NOT.

Dated: August 18, 2015

Hal Poret

Subscribed and sworn to before me this 18 day of August, 2015.

Notary Public-New York
My Commission Expires

JOY V STEWART ALCALA Notary Public, State of New York No. 02ST6254434 Qualified in Nassau County Commission Expires Jan. 17, 20

EXHIBIT A

AFFIDAVIT OF HAL PORET

EXPERT REPORT OF HAL PORET

1) LIKELIHOOD OF CONFUSION SURVEY REGARDING PERSONAL COMFORT BED SPONSORED LISTINGS RESULTING FROM GOOGLE SEARCHES FOR THE TRADEMARKS SLEEP NUMBER BED & COMFORTAIRE

2) SURVEY TO DETERMINE WHETHER "SLEEP NUMBER" IS PERCEIVED BY CONSUMERS TO BE A BRAND NAME OR A COMMON NAME

REPORT PREPARED FOR: Oppenheimer Wolff & Donnelly LLP 222 South 9th Street, Suite 2000 Minneapolis, MN 55402

> PREPARED BY: Hal Poret ORC International 315 Park Ave South, 14th Floor New York, NY 10010

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BACKGROUND AND PURPOSE

Oppenheimer Wolff & Donnelly LLP, attorneys for Select Comfort, retained me to design and conduct a survey with two objectives.

First, I was asked to determine the extent to which, if at all, consumers are misled into mistakenly believing that certain sponsored listings for Personalcomfortbed.com resulting from searches using the trademarks Sleep Number, Sleep Number Bed, and/or Comfortaire are sites operated or owned by the company that makes Sleep Number or Comfortaire beds or are sites where a Sleep Number or Comfortaire bed can be purchased.¹

The following are examples of ads for personalcomfortbed.com that result from searches using the terms Sleep Number, Sleep Number Bed, and Comfortaire:

Number Bed Sleep Sale 60% - Closeout Sale

personalcomfortbed.com/vSleepNumber • (888) 694-4088

Personal Comfort Bed Compare Best (Price Warranty Value)

FDA Registered Facility

Try In-Home "Risk Free"

Free Ship, Pillow, No tax

Compare Now (Save \$2000)

Sleep 55% Off Number Beds (888) 690-4088

personalcomfortbed.com/vSleepNumber

Online Edition Bed Sale *Ends 6/10! Save \$2000 on set + \$500 Upgrades

Comfort Air Beds On Sale

www.personalcomfortbed.com/vComfortaire *

Online Edition Bed Sale *Ends 3/17 Compare Best (Price Warranty Value)

¹ The survey's objective was <u>not</u> to determine whether the purchase of the Sleep Number or Comfortaire trademark as Google Adwords is, on its own, deceptive. The specific objective was to determine whether specific advertisements tested are misleading in the context of a Google search for the relevant term.

I was asked to assess the extent to which consumers mistakenly believe these are links for websites operated by the company that makes Sleep Number or Comfortaire beds or that these are websites where a consumer can buy a Sleep Number of Comfortaire bed.

I was also asked to separately test whether consumers perceive the term "Sleep Number" to be a common term or a brand name.

This report details the methodology and results of the survey.

I was also asked to review and provide my opinions regarding surveys previously conducted by Sarah Butler and Robert Reitter measuring the extent to which the terms Number Bed and Sleep Number have acquired secondary meaning. This report also contains my opinions regarding these surveys and their conclusions.

STUDY AUTHORSHIP AND QUALIFICATIONS

This study was designed, supervised, and implemented by ORC International under

the supervision of Hal L. Poret, Senior Vice President.

I have personally designed, supervised, and implemented approximately 600 consumer

surveys concerning consumer perception, opinion, and behavior. Over 150 of these

surveys have concerned consumer perception regarding trademarks. I have personally

designed numerous studies that have been admitted as evidence in legal proceedings,

and I have been accepted as an expert in survey research on numerous occasions by

U.S. District Courts, the Trademark Trial and Appeal Board, the FTC, and the National

Advertising Division of the Council of Better Business Bureaus (NAD).

I have frequently spoken at major intellectual property and legal conferences on the

topic of how to design and conduct surveys that meet legal evidentiary standards for

reliability, including conferences held by the International Trademark Association

(INTA), American Intellectual Property Law Association, Practicing Law Institute,

Managing Intellectual Property, Promotions Marketing Association, American

Conference Institute, and various bar organizations. In 2010, I published an article

regarding online trademark surveys in The Trademark Reporter, a journal published

by the International Trademark Association.

Poret

In addition to my survey research experience, I hold bachelors and masters degrees in

mathematics and a J.D. from Harvard Law School. Additional biographical material,

including lists of testimony and publications, is provided in Appendix A.

Hal Poret

Dated: April 20, 2015

STUDY DESIGN

This study was designed to function as two separate surveys, each carefully administered to address two different objectives:

- 1) A Confusion Survey designed to test whether or not consumers are likely to be misled into mistakenly believing that certain sponsored listings on Google resulting from searches for the terms Sleep Number, Sleep Number Bed, or Comfortaire, are links to websites that are operated or owned by the company that makes Sleep Number or Comfortaire beds, or are sites where a Sleep Number or Comfortaire bed can be purchased.
- 2) A Teflon Survey designed to test whether consumers perceive "Sleep Number" to be a common term or a brand name.

Both surveys were administered online and any respondent who took one of the surveys was unable to access the other survey.

Confusion Survey

A total of 1200 qualified respondents participated in the confusion portion of this online survey.²

There were 6 separate groups in the survey, each containing 200 unique respondents – three Test Groups and three Control Groups.

Each of the three Test Groups simulated a Google search for a specific term and displayed actual search results including the allegedly infringing listings for Personal Comfort Bed:

 <u>Sleep Number Bed Test Group 1</u>- respondents in this Test Group were taken through a simulated Google search for the term "Sleep Number bed."

² <u>See</u> Relevant Universe and Sampling sections below for more specific information on who participated in the survey.

- <u>Sleep Number Test Group 2</u> respondents in this Test Group were taken through a simulated Google search for the term "Sleep Number."
- <u>Comfortaire Test Group 3</u> respondents in this Test Group were taken through a simulated Google search for the term "Comfortaire."

The three Control Groups each corresponded to one of the three Test Groups.

Respondents in each Control were taken through an identical Google search simulation as their Test Group counterparts, but were shown control search results in which the Personal Comfort Bed listings were altered to eliminate the infringing elements.

Test Groups

The Test Cells were designed to simulate a typical consumer conducting a Google search using one of the three test terms³ and to test respondents' perception of the resulting listings.

Respondents were shown an actual Google search results page from a real Google search for the term.

- <u>Sleep Number Bed Test Group 1</u>- saw a Google search results page in which
 the second link was for the Personal Comfort Bed website and included an
 allegedly misleading use/incorporation of a variation of the Sleep Number
 mark.
- Sleep Number Test Group 2 saw a Google search results page in which the
 first listing was to the Personal Comfort Bed website and included an
 allegedly misleading use/incorporation of a variation of the Sleep Number
 mark.
- <u>Comfortaire Test Group 3</u> saw a Google search results page in which the first listing was to the Personal Comfort Bed website and included an

³ Test Group 1 tested the search term, "Sleep Number Bed." Test Group 2 tested the term, "Sleep Number." Test Group 3 tested the term, "Comfortaire."

allegedly misleading use/incorporation of a variation of the "Comfortaire" mark.

The Google search results pages shown to the Sleep Number Bed Test Group 1 and Sleep Number Test Group 2 included authentic listings for the Sleep Number website and listings to sites where a Sleep Number bed can be purchased. Similarly, the search results shown to the Comfortaire Test Group included authentic listings for the Comfortaire website and places where a Comfortaire bed can be purchased.

The survey was designed to simulate the actual process of a consumer conducting a Google search and then considering the results. After passing the screening criteria and qualifying to take the survey respondents were taken through the following steps, appropriate for the Test Group to which they were assigned.

Sleep Number Bed Test Group 1

The Sleep Number Bed Test Group 1 was designed for testing an allegedly infringing listing that incorporates a variation of the term "Sleep Number."

First, all respondents in the Sleep Number Bed Test Group were given the following instruction:

For this survey, we would like you to imagine that you are interested in purchasing a <u>Sleep Number</u> brand adjustable air bed.

In addition, we would like you to imagine that you were going to perform a GOOGLE Search to shop for a **Sleep Number bed.**

On the next screen these respondents were then prompted with the following instructions:

This survey will take you through a GOOGLE search for the term <u>Sleep Number bed</u>.

First, we are going to show you a GOOGLE search page on which you will see that the search term <u>Sleep Number bed</u> has been entered. Then, you will be shown a page of real GOOGLE results from a search for this term.

You will then be asked some questions. If for any question you have no opinion or do not know, you can select that option at the bottom of the page. Please do not guess.

Please continue to move on with the survey.

On the next screen these respondents were then shown the following instruction:

Please imagine you were doing the following GOOGLE search.

Below this instruction on the same screen, the following image was displayed:



Below the image respondents were instructed:

Please click the "continue" button to continue.

On the next screen these respondents were then prompted:

On the next screen you will see the page of GOOGLE results from a search for <u>Sleep Number bed</u>. Please look at the page as you ordinarily would when examining the results of a GOOGLE search.

You can use the mouse to scroll up and down to examine the entire page.

Although these are real results from a GOOGLE search for <u>Sleep Number bed</u>, please note that the results are not linked to the internet so you will not be able to click on any links to go to any websites.

Then, on the next screen these respondents were shown the following instruction above an image of the following Google results page: ⁴

Please review this GOOGLE results page. When finished, click continue. Or if you could not view the GOOGLE results page, please indicate so.

⁴ The web pages shown in the survey appeared large and easily readable on respondents' computer screens, just as real web pages would appear. The images of web pages appear much smaller fitted onto the printed page in this report.

+You Search Images Maps Play YouTube News Gmail Drive Calendar More -Google Sleep Number Bed Images Maps Shopping More - Search tools Web About 79,800,000 results (0.30 seconds) Shop for Sleep number on Google Sponsored ① Ads related to sleep number bed Sleep Number® Beds 1 (877) 610 1916 / sleepnumber.com/OfficialStore 488 reviews for sleepnumber.com 48-Mo Financing Available on Select Purchases, Learn More or Shop Nowl \$50 Savings Card Offer Memory Foam Beds Why Sleep Number? p5 Sleep m7 Sleep Sleep Number i10 Sleep Bed - Queen... Innovative Bedding New DualTemp™ Number King Number King... \$2,599.98 \$3,899.98 \$1,398.82 \$4,899.98 leep Number PPL Motor H...

Shop by price

Up to \$700 \$700 - \$1500 \$1500 - \$2500

Sleep 55% Off Number Beds (888) 690-4088

personalcomfortbed.com/vSleepNumber
Online Edition Bed Sale *Ends 6/10I Save \$2000 on set + \$500 Upgrades

Comfortaire Closeout Sale (888) 500-1700

www.comfortairedirect.com/AllBedsonSale Save 30%. All 2012 Models Must Go Lowest Price Ever. Shop Beds Nowl

Sleep Number Beds & Memory Foam Mattresses by Sleep Number

www.sleepnumber.com/eng/categories/sleep-number-beds + 5+ items - Shop Sleep Number beds for mattresses and the only memory ... Classic Series - Performance Series - Innovation Series - Memory Foam Series

Sleep Number Beds and Mattress by Sleep Number

Shop the Official Site for **Sleep Number beds**, mattresses & bedding. Sleep Number mattresses are adjustable for ideal comfort and support.

Sleep Number® Beds - Current Specials - Bedding Collection - Customer Service

Sleep Number Bed - QVC.com

www.qvc.com/Sleep-Number-Bed-For-the-Home.category.0101.html?...
Results 1 - 48 of 52 – The Sleep Number(R) Bed has adjustable sides, creating a ... H201487 Sleep Number FL Limited Edition Modular ... QVC Price: \$2,419,00 H201494 Sleep Number SK Limited Edition Adjustable QVC Price: \$4,839.00

Does anybody think a sleep number bed is really good? Is it durable ...

askville.amazon.com > Home > Home Improvement *
May 14, 2012 – I used to have a sleep number bed and always thought they were
overrated and overpriced, it just felt like sleeping on a air mattress to me. This is ...

Shut Up + Run: Sleep Number Bed Review (i10 Model)

www.shulupandrun.net/2012/_/sleep-number-bed-review-i10-model.ht. ~
Oct 27, 2012 – (Update: In April 2013 I did a follow up review of the Sleep Number
Bed. You can find it HERE). Do you happen to remember a post I wrote ...

Select Comfort - Wikipedia, the free encyclopedia en.wikipedia.org/wiki/Select_Comfort * Select Comfort is a U.S.-based manufacturer that manufactures the Sleep Number bed as well as foundations and bedding accessories. The company is based ...

Sleep Number bed negative customer testimonial... - YouTube

www.youtube.com/watch?v=g84xYDSKdO0
Jun 15, 2011 - Uploaded by Stefanie Phillips
Customer reveals poor qualify of Sleep Number bed. We hate
this bed and Sleep Number won't take it back ...

More videos for sleep number bed »

Sleep Number - Get great deals for Sleep Number on eBay

popular.ebay.com > Popular Items > Home Living ·

The Sleep Number bed, produced by Select Comfort, was introduced in 1987. Furniture/Today has ranked it as the number-one bedding retailer in America for ...

Unbiased Sleep Number Bed (Select Comfort) Reviews 2013 ...

www.sleeplikethedead.com > Mattress Ratings > Airbed Reviews • May 17, 2013 — Sleep Like The Dead reviews and rates the Sleep Number (Select Comfort) bed based on over 1630 actual consumer experiences. A detailed ...

Compare Sleep Number by SelectComfort to Dream Number Beds

www.dreamnumberbeds.com/compare-sleep-number-beds/ * Compare SelectComfort's Sleep Number beds to ours and learn how you can save from \$300 all the way up to \$1500 on a comparable mattress from Dream ...

Ad related to sleep number bed

Sleep Number Mattresses - Rest In Comfort W/ Sleep Number

www.qvc.com/SieepNumber 37,679 reviews for qvc.com Now On 3+ Easy Payments At QVC.

Mattresses On Easy Pay - Shop Bedding Clearance - Buy Top Rated Mattresses

Searches related to sleep number bed

sleep number bed problems sleep number bed parts sleep number bed reviews tempurpedic bed sleep number bed vs tempurpedic sleep number bed mold sleep number bed reviews 2011 sleep number bed prices

1 2 3 4 5 6 7 8 9 10

After respondents were given a chance to examine the page of results, they either selected a "continue" option to advance to the next screen, or an option that read, "Cannot view GOOGLE results page."

Only respondents who were able to view the image continued with the survey and potentially counted toward the final number of interviews.

Then on the next screen, respondents were asked:

Which result or results, if any, do you think are websites that are <u>operated by</u> the company that makes <u>Sleep Number</u> beds?

Please click on all results that you think are websites operated by the company that makes Sleep Number beds, if any. If you do not want to select any of these search results, please select the "No opinion/None of these" button at the bottom of the GOOGLE page.

Below the question and on the same screen, respondents saw the same image from the previous screen. However, this time respondents could scroll over the result listings. When a respondent moved the cursor over a particular listing, a light green box would appear, highlighting the listing temporarily and making it simple for respondents to then click on listing(s), if any, in order to answer the question.

No particular listings were highlighted or pointed out to respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen respondents were then asked:

Aside from the results you just selected, which <u>other</u> result or results, if any, do you think are websites <u>where you could purchase</u> a <u>Sleep Number</u> bed?

The results you already selected in the previous question are highlighted and cannot be selected again here.

Please click any <u>other</u> GOOGLE search result or results you think are websites where you could purchase a Sleep Number bed, if any. If you do not want to select any of these search results, please select the "No Opinion/None of these" button at the bottom of the GOOGLE page.

Below this instruction, respondents were shown the same image from the previous screen; however, any result listings that had previously been selected remained highlighted from the previous screen and could not be selected again by respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen, respondents who selected the allegedly infringing Google search result in response to the earlier question, regarding which listings they think are websites that are operated by the company that makes Sleep Number beds, were then asked the following question about why they selected that listing:

You answered that the result shown here is a website that is <u>operated by</u> the company that makes <u>Sleep Number</u> beds. What makes you think so?

<u>Sleep 55% Off Number Beds</u> (888) 690-4088 personalcomfortbed.com/vSleepNumber Online Edition Bed Sale *Ends 6/10! Save \$2000 on set + \$500 Upgrades

Respondents were provided a large text box in which they could type in a response.

Meanwhile, respondents who selected the allegedly infringing search result in response to the other question, regarding which other result or results, if any, they think are websites where they could purchase a Sleep Number bed, were instead asked:

You answered that the result shown here is a website <u>where you could purchase</u> a <u>Sleep Number</u> bed. What makes you think so?

Sleep 55% Off Number Beds (888) 690-4088 personalcomfortbed.com/vSleepNumber Online Edition Bed Sale *Ends 6/10! Save \$2000 on set + \$500 Upgrades

Again, respondents were provided a large text box in which they could type in a response.

This concluded the survey for respondents in the Sleep Number Bed Test Group 1 respondents.

Sleep Number Test Group 2

Respondents in the Sleep Number Test Group 2 were given the same survey as respondents in the Sleep Number Bed Test Group 1; however, during the Google search process the term "Sleep Number Bed" was replaced by "Sleep Number" and the images were replaced with the appropriate images for testing an allegedly infringing listing that references/incorporates another variation the term "Sleep Number."

First Test Group 2 respondents were given the same initial instruction as Test Group 1:

For this survey, we would like you to imagine that you are interested in purchasing a <u>Sleep Number</u> brand adjustable air bed.

In addition, we would like you to imagine that you were going to perform a GOOGLE Search to shop for a **Sleep Number bed**.

Then, on the next screen Sleep Number Test Group 2 respondents were then prompted with the following instructions for a Google search using the term "Sleep Number":

This survey will take you through a GOOGLE search for the term <u>Sleep Number</u>.

First, we are going to show you a GOOGLE search page on which you will see that the search term <u>Sleep Number</u> has been entered. Then, you will be shown a page of real GOOGLE results from a search for this term.

You will then be asked some questions. If for any question you have no opinion or do not know, you can select that option at the bottom of the page. Please do not guess.

Please continue to move on with the survey.

On the next screen these respondents were then shown the following instruction and image:

Please imagine you were doing the following GOOGLE search.



Below the image respondents were instructed:

Please click the "continue" button to continue.

On the next screen these respondents were then prompted:

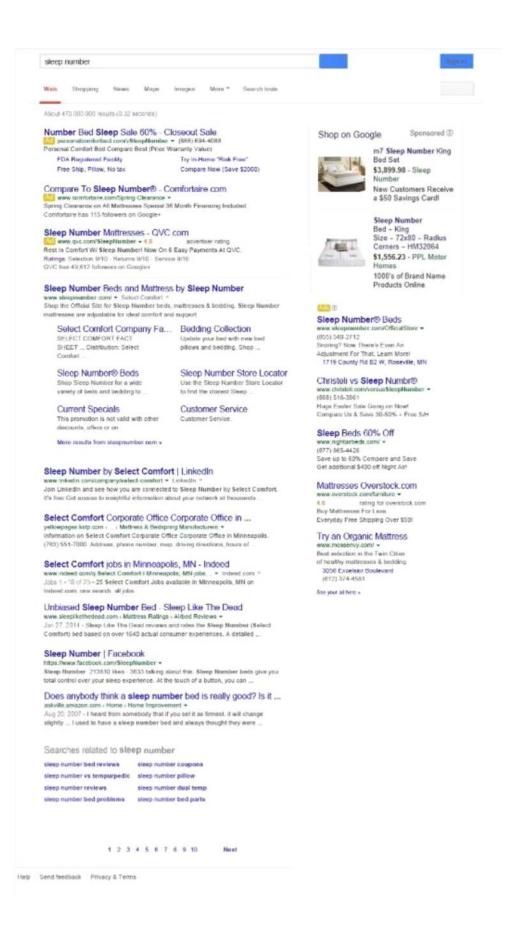
On the next screen you will see the page of GOOGLE results from a search for <u>Sleep Number</u>. Please look at the page as you ordinarily would when examining the results of a GOOGLE search.

You can use the mouse to scroll up and down to examine the entire page.

Although these are real results from a GOOGLE search for <u>Sleep Number</u>, please note that the results are not linked to the internet so you will not be able to click on any links to go to any websites.

Then, on the next screen these respondents were shown the following instruction above an image of the following Google results page for Sleep Number:

Please review this GOOGLE results page. When finished, click continue. Or if you could not view the GOOGLE results page, please indicate so.



After respondents were given a chance to examine the page of results, they either selected a "continue" option to advance to the next screen, or an option that read, "Cannot view GOOGLE results page."

Only respondents who were able to view the image continued with the survey and potentially counted toward the final number of interviews.

Then on the next screen, respondents were asked:

Which result or results, if any, do you think are websites that are <u>operated by</u> the company that makes <u>Sleep Number</u> beds?

Please click on all results that you think are websites operated by the company that makes Sleep Number beds, if any. If you do not want to select any of these search results, please select the "No opinion/None of these" button at the bottom of the GOOGLE page.

As with Test Group 1, below the question and on the same screen, respondents saw the same image from the previous screen. However, this time respondents could scroll over the result listings. The result listing were programmed the same way for Test Group 2 as they were with Test Group 1, so that when a respondent moved the cursor over a particular listing, a light green box appeared, highlighting the listing temporarily and making it simple for respondents to then click on listing(s), if any, in order to answer the question.

Again, no particular listings were highlighted or pointed out to respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen respondents were then asked:

Aside from the results you just selected, which <u>other</u> result or results, if any, do you think are websites <u>where you could purchase</u> a <u>Sleep Number</u> bed?

The results you already selected in the previous question are highlighted and cannot be selected again here.

Please click any <u>other</u> GOOGLE search result or results you think are websites where you could purchase a Sleep Number bed, if any. If you do not want to select any of these search results, please select the "No Opinion/None of these" button at the bottom of the GOOGLE page.

Below this instruction, respondents were shown the same image from the previous screen; however, any result listings that had previously been selected remained highlighted from the previous screen and could not be selected again by respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen, respondents who selected the allegedly infringing Google search result in response to the earlier question, regarding which listings they think are websites that are operated by the company that makes Sleep Number beds, were then asked they following question about why they selected that listing:

You answered that the result shown here is a website that is <u>operated by</u> the company that makes <u>Sleep Number</u> beds. What makes you think so?

Number Bed Sleep Sale 60% - Closeout Sale

AG personal comfortbed.com/v\$leepNumber ▼ (888) 694-4088

Personal Comfort Bed Compare Best (Price Warranty Value)

FDA Registered Facility

Free Ship, Pillow, No tax

Compare Now (Save \$2000)

Respondents were provided a large text box in which they could type in a response.

Meanwhile, respondents who selected the allegedly infringing search result in response to the other question, regarding which other result or results, if any, they think are websites where they could purchase a Sleep Number bed, were instead asked:

You answered that the result shown here is a website where you could purchase a Sleep Number bed. What makes you think so?

Number Bed Sleep Sale 60% - Closeout Sale

personalcomfortbed.com/v\$leepNumber • (888) 694-4088 Personal Comfort Bed Compare Best (Price Warranty Value)

FDA Registered Facility

Free Ship, Pillow, No tax

Try In-Home "Risk Free"

Compare Now (Save \$2000)

Again, respondents were provided a large text box in which they could type in a response.

This concluded the survey for respondents in the Sleep Number Test Group 2 respondents.

Comfortaire Test Group 3

Respondents in the Comfortaire Test Group 3 were given the same survey as respondents in the Sleep Number Bed Test Group 1 and Sleep Number Test Group 2; however, during the Google search process the terms "Sleep Number Bed" and "Sleep Number" were replaced by "Comfortaire" and images were replaced with the appropriate images for testing an allegedly infringing listing that references/incorporates a variation of the term "Comfortaire."

First, Test Group 3 respondents were given the initial instruction:

For this survey, we would like you to imagine that you are interested in purchasing a **Comfortaire** brand adjustable air bed.

In addition, we would like you to imagine that you were going to perform a GOOGLE Search to shop for a **Comfortaire bed.**

Then, on the next screen ComfortaireTest Group 3 respondents were then prompted with the following instructions for a Google search using the term "Comfortaire":

This survey will take you through a GOOGLE search for the term <u>Comfortaire</u>.

First, we are going to show you a GOOGLE search page on which you will see that the search term <u>Comfortaire</u> has been entered. Then, you will be shown a page of real GOOGLE results from a search for this term.

You will then be asked some questions. If for any question you have no opinion or do not know, you can select that option at the bottom of the page. Please do not guess.

Please continue to move on with the survey.

On the next screen these respondents were then shown the following instruction and image:

Please imagine you were doing the following GOOGLE search.



Below the image respondents were instructed:

Please click the "continue" button to continue.

On the next screen these respondents were then prompted:

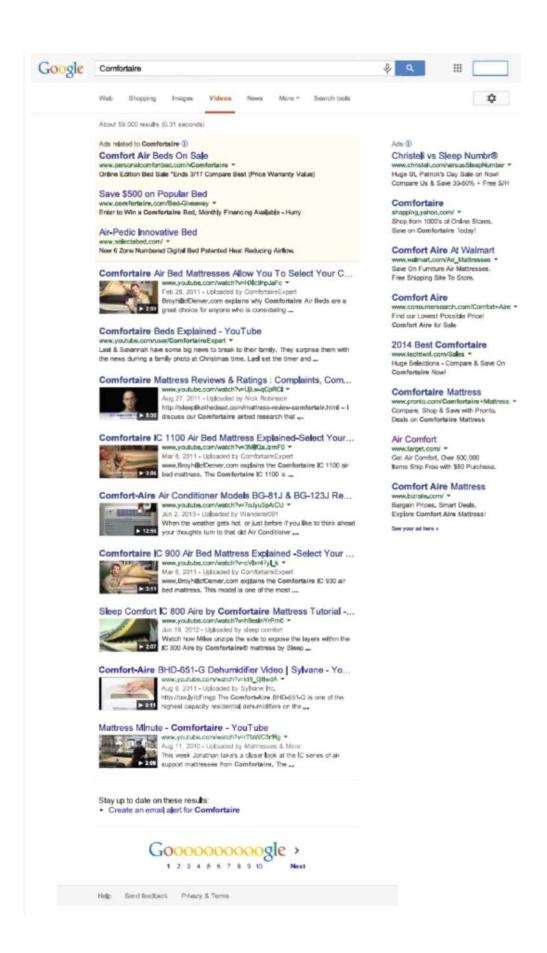
On the next screen you will see the page of GOOGLE results from a search for <u>Comfortaire</u>. Please look at the page as you ordinarily would when examining the results of a GOOGLE search.

You can use the mouse to scroll up and down to examine the entire page.

Although these are real results from a GOOGLE search for <u>Comfortaire</u>, please note that the results are not linked to the internet so you will not be able to click on any links to go to any websites.

Then, on the next screen these respondents were shown the following instruction above an image of the following Google results page:

Please review this GOOGLE results page. When finished, click continue. Or if you could not view the GOOGLE results page, please indicate so.



After respondents were given a chance to examine the page of results, they either selected a "continue" option to advance to the next screen, or an option that read, "Cannot view GOOGLE results page."

Only respondents who were able to view the image continued with the survey and potentially counted toward the final number of interviews.

Then on the next screen, respondents were asked:

Which result or results, if any, do you think are websites that are <u>operated by</u> the company that makes <u>Comfortaire</u> beds?

Please click on all results that you think are websites operated by the company that makes Sleep Number beds, if any. If you do not want to select any of these search results, please select the "No opinion/None of these" button at the bottom of the GOOGLE page.

Below the question and on the same screen, respondents saw the same image from the previous screen. As with the other Test Groups, this time respondents could scroll over the result listings. This was programmed the same as in the other Test Groups, so that when a respondent moved the cursor over a particular listing, a light green box would appear, highlighting the listing temporarily and making it simple for respondents to then click on listing(s), if any, in order to answer the question.

Again, no particular listings were highlighted or pointed out to respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen respondents were then asked:

Aside from the results you just selected, which <u>other</u> result or results, if any, do you think are websites <u>where you could purchase</u> a <u>Comfortaire</u> bed?

The results you already selected in the previous question are highlighted and cannot be selected again here.

Please click any <u>other</u> GOOGLE search result or results you think are websites where you could purchase a Comfortaire bed, if any. If you do not want to select any of these search results, please select the "No Opinion/None of these" button at the bottom of the GOOGLE page.

Below this instruction, respondents were shown the same image from the previous screen; however, any result listings that had previously been selected remained highlighted from the previous screen and could not be selected again by respondents. As indicated in the instructions, respondents could click to indicate one or more than one link, or they could click the "No opinion/None of these" option at the bottom of the screen.

On the next screen, respondents who selected the allegedly infringing Google search result in response to the earlier question, regarding which listings they think are websites that are operated by the company that makes Comfortaire beds, were then asked they following question about why they selected that listing:

You answered that the result shown here is a website that is <u>operated by</u> the company that makes <u>Sleep Number</u> beds. What makes you think so?

```
Comfort Air Beds On Sale
www.personalcomfortbed.com/vComfortaire *
Online Edition Bed Sale *Ends 3/17 Compare Best (Price Warranty Value)
```

Respondents were provided a large text box in which they could type in a response.

Meanwhile, respondents who selected the allegedly infringing search result in response to the other question, regarding which other result or results, if any, they think are websites where they could purchase a Comfortaire bed, were instead asked:

You answered that the result shown here is a website <u>where you could purchase</u> a <u>Sleep Number</u> bed. What makes you think so?

Comfort Air Beds On Sale
www.personalcomfortbed.com/vComfortaire *
Online Edition Bed Sale *Ends 3/17 Compare Best (Price Warranty Value)

Again, respondents were provided a large text box in which they could type in a response.

This concluded the survey for respondents in the Comfortaire Test Group 3 respondents.

For all respondents in all three Test Groups, these questions permitted the survey to determine in an unaided manner whether the respondents were confused about the source of the sponsored link for Personal Comfort Bed resulting from a search for a Sleep Number bed or a Comfortaire bed. The survey did nothing to call respondents' attention to the link in question (any more than their attention would be called to a top sponsored link during an actual, live Google search). Respondents could only indicate confusion over the link by deciding on their own to click on it.

Control Groups

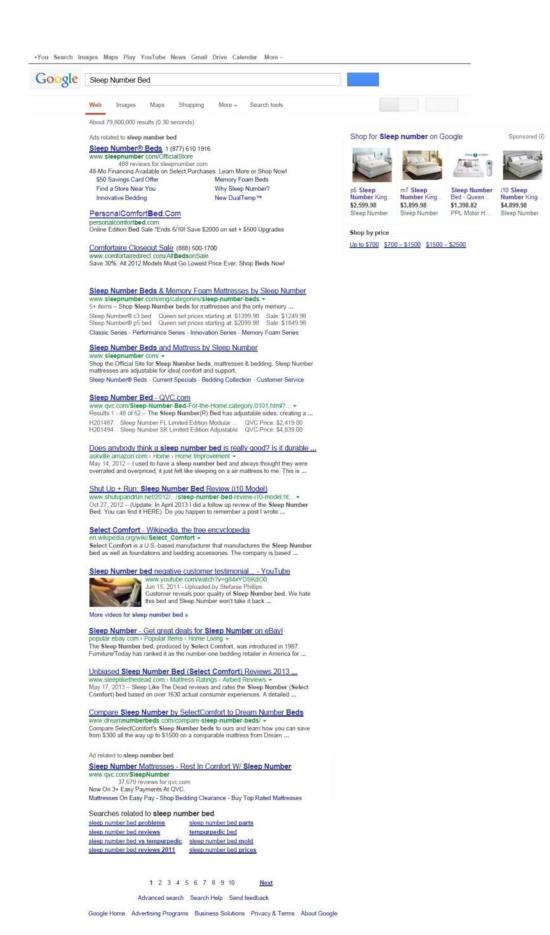
The study also included three Control Groups designed to measure the level of survey noise in each of the corresponding Test Groups. In any survey, there is a certain degree of error caused by respondent guessing, the study design, question wording, and other factors. A control removes the stimulus that is hypothesized to be the cause of any confusion in the Test Group in order to determine whether the results in the Test Group are truly caused by the test stimulus as opposed to other factors or survey error.

In the present case, the Control Groups entailed simulating a search for the same terms as was used in the Test Groups, "Sleep Number bed," "Sleep Number," and

"Comfortaire," but with an altered listing for Personal Comfort Bed with the allegedly misleading elements removed.

The Google search results page shown to respondents in each Control Group varied from the page shown to respondents in the Test Groups in that the allegedly misleading "Sleep Number" and "Comfortaire" listings were replaced with actual Personal Comfort Bed listings that do not make potentially misleading use of the term Sleep Number or Comfortaire.

The following is the Google results page for the Sleep Number Bed Control Group 1 in which respondents were prompted to imagine they were doing a search for "Sleep Number bed:"

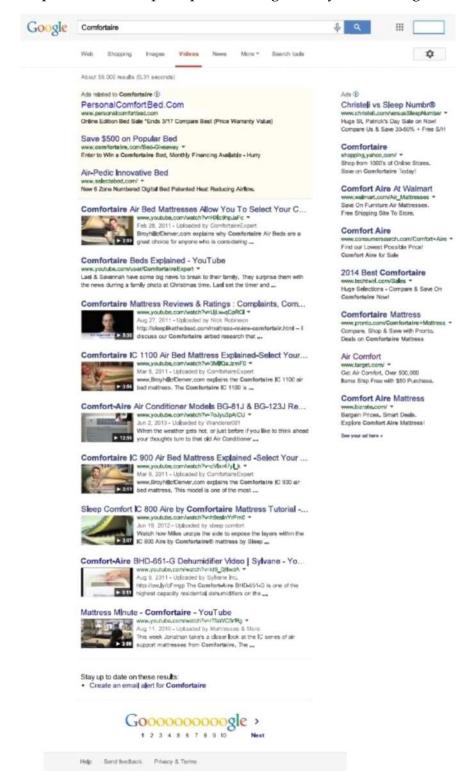


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The following is the Google results page for the Sleep Number Control Group 2 in which respondents were prompted to imagine they were doing a search for "Sleep Number:"



The following is the Google results page for the Comfortaire Control Group 3 in which respondents were prompted to imagine they were doing a search for "Comfortaire:"



These controls permitted me to determine the noise level – i.e., the tendency for respondents to answer that the Personal Comfort Bed listings are websites that are

operated by the company that makes Sleep Number/Comfortaire beds or are websites where these beds can be purchased, even when the search result did not actually include any allegedly misleading use of the terms Sleep Number or Comfortaire. In particular, the Controls allowed me to screen out any "confusion" resulting only from the fact that the listing resulted from a search for Sleep Number, Sleep Number bed, or Comfortaire and not due to anything misleading about the actual listing. Because the only difference between the Test and Control Groups was the alteration of the misleading elements of the Personal Comfort Bed listings, any difference between each of the Test and Control Groups must be attributed to those elements and cannot be dismissed as survey noise or as confusion resulting only from the purchase of the ad word.

All respondents in the Control Groups were given identical instructions and questions to the Test Cell respondents other than the substitution of the result screen images.

<u>Teflon Survey</u>

A Teflon survey is a well-known and established survey structure, which has been previously accepted as an appropriate design to test whether consumers perceive a specific term -- in the case of this survey, "Sleep Number" - to be a common term or a brand name.

A total of 200 qualified respondents participated in the Teflon portion of this survey.⁵

First, half of the respondents were given the following instruction:

This survey is about **brand** names and **common** names in the context of mattresses. In a few moments you will be asked about a number of terms that you may or may not have heard before in connection with mattresses. But first, please read the next two screens about what we mean by a **brand** name and what we mean by a **common** name.

⁵ <u>See</u> Relevant Universe and Sampling sections below for more specific information on who participated in the survey.

Meanwhile, the other half of all respondents were shown a second version of these instructions, in which the order that "brand" and "common" were mentioned was switched:

This survey is about **common** names and **brand** names in the context of mattresses. In a few moments you will be asked about a number of terms that you may or may not have heard before in connection with mattresses. But first, please read the next two screens about what we mean by a **common** name and what we mean by a **brand** name.

In all subsequent questions and instructions that included the terms "brand" and "common," the order in which the two terms appeared corresponded with the order in which they appeared in these initial instructions for each respondent.

On the next two screens respondents were given an overview of what a brand name is and what a common name is. Respondents that saw the term "brand" before the term "common" in the instructions on the previous screen were then shown an explanation of what a brand name is, followed by an explanation of what a common name is on the next screen. Meanwhile, respondents who saw the term "common" followed by the term "brand" in the previous instructions were shown the explanation of what a common name is, followed by an explanation of what a brand name is on the next screen.

On one screen, respondents were shown the following description of what a brand name is:

<u>Brand names</u> are names that companies use on their products to let consumers know <u>who</u> the product comes from. A brand name can be used by only <u>one</u> company to identify its products.

For example, LA-Z-BOY, IKEA, and POTTERY BARN are all <u>brand</u> names. These terms let a user know <u>who</u> the product comes from.

On the other screen, respondents were shown the following description of what a common name is:

<u>Common names</u> are words used to identify or describe <u>what</u> a product is. A common name can be used by <u>more than one</u> company to identify the <u>type</u> of product they are selling.

For example, RECLINER, BOOK SHELF and ARMOIR are all <u>common</u> names. These words let the consumer know the <u>type</u> of product a company is selling.

On a new screen respondents were asked:

Do you understand the difference between a brand name and a common name?

- Yes
- No
- Don't know

Again, the order in which the terms "brand" and "common" appeared in the question was consistent with the order in which respondents had seen the terms on previous screens. Respondents who did not understand the difference or were unsure if they understood the difference would not have been able to provide informed and knowledgeable answers to the key questions in the main survey and, therefore, these respondents did not continue beyond this question. Only respondents who answered that they understand the difference between a brand name and a common name continued with the survey.

Respondents that understood the difference between brand names and common names were next asked two questions designed to test their ability to differentiate between a brand and a common name. The following question tested the respondent's ability to recognize a brand name:

Which type of name would you say **SEARS** is?

- Brand name
- Common name

⁶ Seven respondents did not understand or were unsure if they understood the difference between a brand name and a common name.

Don't know

The following question tested the respondent's ability to recognize a common name:

Which type of name would you say **SIDE TABLE** is?

- Brand name
- Common name
- Don't know

Respondents who did not answer that SEARS is a brand name and that SIDE TABLE is a common name did not continue with the survey, under the assumption that if a respondent could not identify SEARS as a brand or SIDE TABLE as a common then they likely did not understand the explanation of what a brand name is or what a common name is to the extent necessary to adequately answer the remaining questions in an informed manner.

Respondents who did correctly answer that SEARS is a brand and SIDE TABLE is a common name, were then prompted with the following instructions on a new screen:

You will now see a series of terms, one at a time, that you may or may not have seen used in connection with mattresses. For each one, please answer whether you think it is a <u>brand</u> name or a <u>common</u> name. Or if you don't know, you may select that option.

Then, on the next screen respondents were shown one of the following seven terms:

- SLEEP NUMBER
- MEMORY FOAM
- POSTUREPEDIC
- o TEMPUR-PEDIC
- o BEAUTYREST
- FIRMNESS SETTING
- o ADJUSTABLE AIR BED

On each screen where a term was shown, beneath the term and on the same screen, respondents were asked:

Do you think this is a ...

- Brand name
- Common name
- Don't know

For the roughly half of respondents for whom the term "common" came before "brand" in the previous instructions, the term "common" was also listed before "brand" in the answer choices here.

This question was repeated seven times, each time on a new screen and showing another one of the seven terms, until all seven terms had been presented to the respondent. The order in which these terms were shown varied so that about quarter of all respondents saw the terms in one of each of the following orders:

ORDER 1	ORDER 2	ORDER 3	ORDER 4
SLEEP NUMBER	FIRMNESS	MEMORY FOAM	FIRMNESS
	SETTING		SETTING
MEMORY FOAM	BEAUTYREST	POSTUREPEDIC	BEAUTYREST
POSTUREPEDIC	SLEEP NUMBER	TEMPUR-PEDIC	ADJUSTABLE
			AIR BED
TEMPUR-PEDIC	MEMORY FOAM	ADJUSTABLE	MEMORY FOAM
		AIR BED	
BEAUTYREST	TEMPUR-PEDIC	SLEEP NUMBER	POSTUREPEDIC
FIRMNESS	POSTUREPEDIC	BEAUTYREST	TEMPUR-PEDIC
SETTING			
ADJUSTABLE AIR	ADJUSTABLE	FIRMNESS	SLEEP NUMBER
BED	AIR BED	SETTING	

The seven terms shown to respondents were carefully selected, so that each respondent, in addition to being shown the term SLEEP NUMBER, saw three brand names (POSTUREPEDIC, TEMPUR-PEDIC, BEAUTYREST) and three common names (MEMORY FOAM, FIRMNESS SETTING, ADJUSTABLE AIR BED).

Asking respondents the same question for three other brand names in addition to three common names provided sufficient benchmarks for comparing the level to which

respondents collectively believe the other marks to be brands and the extent to which respondents believe the other terms to be common names.

This concluded the survey for all respondents who took the Teflon portion of this survey.

<u>See</u> Appendix C for all images used in the survey and larger versions of the above images. <u>See</u> Appendix E for screenshots of the actual survey.⁷

⁷ These images were viewed on a computer screen and covered the entire screen, as an actual web page would. The images showed in this report are reduced in size to be able to fit on a page. In addition, the web pages shown to respondents are too long to be captured in a single screenshot. Appendix D shows the web pages reduced in size to fit into one screenshot each. Actual respondents viewed the web page as a large image they could scroll up and down, as they would with an actual web page.

SUMMARY OF KEY FINDINGS

- 1) In Sleep Number Bed Test Group 1 in the Confusion Survey, 45% of respondents mistakenly believed that the Personal Comfort Bed listing (with the description, "Sleep 55% Off Number Bed") was for a website operated by the company that makes Sleep Number beds or a website where they could purchase a Sleep Number bed. In the Control Group one, the corresponding figure was 22.0%. This yields a net confusion level of 23.0%.
- 2) In Sleep Number Test Group 2 in the Confusion Survey, 59% of respondents mistakenly believed that the Personal Comfort Bed listing (with the description, "Number Bed Sleep Sale 60% Closeout Sale") was for a website operated by the company that makes Sleep Number beds or a website where they could purchase a Sleep Number bed. In the Control Group one, the corresponding figure was 23.5%. This yields a net confusion level of 35.5%.
- 3) In Comfortaire Test Group 3 in the Confusion Survey, 59% of respondents mistakenly believed that the Personal Comfort Bed listing (with the description, "Comfort Air Beds On Sale" and the link, www.personalcomfortbed.com\vComfortaire) was for a website operated by the company that makes Comfortaire beds or a website where they could purchase a Comfortaire bed. In the Control Group one, the corresponding figure was 37%. This yields a net confusion level of 22.0%.
- 4) The net confusion levels of 23.0%, 35.5% and 22.0% represent appreciable levels that support a finding that the challenged search listings do create a likelihood of confusion.
- 5) In the Teflon Survey, 83.5% of respondents answered that Sleep Number is a brand name, not a common term. This clearly establishes that Sleep Number functions as a trademark and is not generic.

<u>See</u> Detailed Findings section below for additional information on results. The full data will be provided in electronic form.

METHODOLOGY

THE RELEVANT UNIVERSE OF INTEREST

The universe for both the Confusion survey and the Teflon survey is composed of consumers who have purchased a mattress in the past 2 years or are considering purchasing a mattress in the next two years.

The following screening questions asked in the beginning of the survey ensured that only respondents from the appropriate sample universe could enter the main survey.

First, all respondents were asked:

Which of the following, if any, have you purchased <u>in the past 2 years</u>? (Select all that apply or "none of these.")

- An automobile
- A house or apartment
- A household pet
- A vacation package
- A mattress

The order in which the response options were provided was randomized for each respondents and an option for "None of these" always appeared at the bottom of the list. The purpose of including response options other than "A mattress" was to blind the topic of the survey.

Next, all respondents were asked:

Which of the following, if any, are you likely to consider purchasing <u>in the next 2 years?</u>

(Select all that apply or "none of these.")

Respondents were shown, and could select from, the same list as seen in the previous question.

Only respondents who answered "A mattress" in response to one or both of these questions were able to continue.

At this point, respondents who answered "mattress" to one or both of these questions and who were invited to participate in the Teflon survey were considered to have met the qualifying criteria.

The Confusion survey, however, has a narrower sample universe, including only mattress consumers who specifically have considered or would consider an adjustable air mattress and who would perform, or have performed, a Google search online in order to obtain information about such a product. Therefore, respondents invited to participate in the Confusion survey continued on to additional screening questions designed to determine whether or not they met the appropriate criteria.

Among these respondents, those who previously indicated they had purchased a mattress within the past two years, were next shown the following information and question:

The following are descriptions of several types of mattresses. Please read these descriptions and refer to them in answering the question below.

Type of	<u>Description</u>
<u>Mattress</u>	
Spring/coil	A mattress that is filled with springs/coils for support
mattress	
Air mattress	A mattress that is filled with air for support rather than
(non-adjustable)	springs/coils. The mattress is permanent and cannot
	be adjusted.
Adjustable air	A mattress that is filled with air for support rather than
mattress	springs/coils. The mattress can be adjusted by remote
	control for comfort/firmness.
Inflatable air	A bed that can be inflated and deflated with an air
bed	pump and is portable. Often used for camping, travel,
	etc.
Memory foam	A mattress that is made of foam that adjusts to the
mattress	shape of the body

For each of the following types of mattresses (described above), please indicate whether or not you purchased or considered purchasing that type of mattress <u>in the past 2 years</u>?

The order in which the types of mattresses were listed was randomized. Below the descriptions, respondents were shown a grid with the following column headings across the top: Considered, but did not purchase; Purchased; Did not consider or purchase. The following types of mattresses were listed on separate rows in the grid and appeared in the same order in which they were listed in the table above:

- Spring/coil mattress
- Air mattress (non-adjustable)
- Adjustable air mattress
- Inflatable air bed
- Memory foam mattress

Next, respondents who previously answered that they are likely to consider purchasing a mattress in the next two years were asked:

The following are descriptions of several types of mattresses. Please read these descriptions and refer to them in answering the question below.

Type of	<u>Description</u>
<u>Mattress</u>	
Spring/coil	A mattress that is filled with springs/coils for support
mattress	
Air mattress	A mattress that is filled with air for support rather than
(non-adjustable)	springs/coils. The mattress is permanent and cannot
	be adjusted.
Adjustable air	A mattress that is filled with air for support rather than
mattress	springs/coils. The mattress can be adjusted by remote
	control for comfort/firmness.
Inflatable air	A bed that can be inflated and deflated with an air
bed	pump and is portable. Often used for camping, travel,
	etc.
Memory foam	A mattress that is made of foam that adjusts to the
mattress	shape of the body

Which, if any, of the following types of mattresses (described above), would you consider purchasing in the <u>next</u> 2 years?

(Select all that apply or "none of these.")

- 1. Spring/coil mattress
- 2. Air mattress (non-adjustable)
- 3. Adjustable air mattress
- 4. Inflatable air bed
- 5. Memory foam mattress

The order in which the types of mattresses were shown in the table and response options for this question matched the order in which they were shown in the previous question. An option for "None of these" also appeared at the bottom of the list for each respondent.

Only respondents invited for the Confusion survey who answered that they had purchased, considered, or would consider purchasing an "Adjustable air mattress" continued with the survey.

Respondents were also asked questions to determine whether or not they would perform a Google search for an adjustable air mattress.

First, those who answered that they had considered or purchased an adjustable air mattress in the past two years were asked:

You previously indicated that you have purchased or considered purchasing an adjustable air mattress in the past 2 years. Which of the following, if any, did you do to shop for or get information about mattresses? (Select all that apply or "none of the above.")

- Perform a GOOGLE internet search
- Go directly to a mattress website for a company or brand you know
- Call the manufacturer or product representative
- Talk to a friend about a recommendation
- Visit a store with a mattress showroom

The list of response options was randomized for each respondent and an option for "None of these," always appeared at the bottom of the list.

Next, those who answered that they would consider purchasing an adjustable air mattress in the next two years were asked:

If you were considering purchasing an adjustable air mattress, which of the following, if any, would you be likely to do to shop for or get information about mattresses?

(Select all that apply or "none of the above.")

The same list of response options as was shown in the previous question was shown here and in the same order.

Only respondents who answered "Perform a GOOGLE internet search" to one or both of these questions, continued:

Which, if any, of the following are brands of mattress that have you heard of? (Select all that apply or "none of the above.")

- Sleep Number
- Comfortaire
- Tempur-Pedic
- Beautyrest
- Posturepedic

The list of response options was randomized for each respondent and an option for "None of these," always appeared at the bottom of the list. Only respondents who had heard of either "Sleep Number" or "Comfortaire," or both, qualified for and continued on to the main portion of the Confusion survey.

Specifically, respondents who had heard of Sleep Number were able to qualify for the Confusion survey's Test and Control Groups 1 and 2 which simulated a Google search for the terms "Sleep Number Bed" and "Sleep Number." Meanwhile, respondents who had heard of Comfortaire were able to qualify for the Confusion survey's Test and Control Group 3 in which a Google search for the term "Comfortaire" was simulated.

Spending or considering spending a particular dollar amount on an adjustable air mattress was not considered qualifying criteria for the sample universe. However,

respondents were asked what amount they would consider spending or had considered or spent.

First, respondents who previously answered that they had considered purchasing an adjustable air mattress in the past two years were asked:

You indicated that you have considered purchasing an <u>adjustable air mattress</u> in the past 2 years.

What is the <u>highest</u> amount of money you considered spending on an adjustable air mattress?

- 1. Less than \$399
- 2. \$400 \$699
- 3. \$700 \$999
- 4. \$1000 \$1299
- 5. \$1300 \$1599
- 6. \$1600 or more

Meanwhile, respondents who previously answered that they have purchased an adjustable air mattress in the past two years were asked:

You indicated that you purchased an <u>adjustable air mattress</u> in the past 2 years.

What is the <u>highest</u> amount of money you spent on an adjustable air mattress in the past 2 years?

These respondents saw the same list of dollar ranges as shown in the previous question.

And, respondents who previously answered that they would consider purchasing an adjustable air mattress in the next two years were similarly asked:

You indicated that you would consider purchasing an <u>adjustable air mattress</u> in the next 2 years. Again, an adjustable air mattress is a mattress that is filled with air for support and can be adjusted by remote control for comfort/firmness.

What is the <u>highest</u> amount of money you would be likely to spend on an adjustable air mattress?

These respondents also saw the same list of dollar ranges as shown in the previous question.

The actual full wording of the screening questions used is shown in Appendix B.

SAMPLING PLAN

The sampling plan involved using an online panel managed by Toluna, Inc., a leading supplier of online sample. Online surveys are well-accepted in the field of survey research as a standard, reliable methodology. Indeed, online surveys are now the most common method of conducting market research among consumers. Businesses routinely make decisions of importance based on the results of online survey research.

Age and gender quotas were based on U.S. Census data and the incidence of qualification for each survey. I looked at the incidence and qualification of each quota group and adjusted the final hard quotas so that the final sample would accurately reflect the market of consumers meeting the screening criteria.

The following final hard quotas by age and gender were set and obtained for each survey:

Confusion Survey			
Age Range	Males	Females	
18-34	35	46	
35-44	29	26	
45-54	18	18	
55+	14	14	

<u>Teflon Survey</u>			
Age Range	Males	Females	
18-34	30	30	
35-44	24	24	
45-54	22	24	
55+	22	24	

Additionally, a geographically representative sample was obtained for the survey, with the following distribution of respondents across the five U.S. regions:

Confusion Survey		
Region	Percentage of Respondents	
Midwest	20%	
Northeast	17%	
South	18%	
West	25%	
Southeast	20%	

Teflon Survey		
Region	Percentage of Respondents	
Midwest	16%	
Northeast	21%	
South	16%	
West	24%	
Southeast	23%	

DOUBLE-BLIND INTERVIEWING

It is important to point out that the study was administered under "double-blind" conditions. That is, not only were the respondents kept uninformed as to the purpose and sponsorship of the study, but the services involved in providing the sample and administering the online interviews were similarly "blind" with respect to the study's purpose and sponsorship.

INTERVIEWING PROCEDURES

The online survey was programmed and hosted by Decipher, Inc, a company specializing in web survey programming and data collection and processing. My staff and I thoroughly tested the programmed survey prior to any potential respondents receiving the invitation to participate in the survey.

VALIDATION/QUALITY CONTROL

Respondents were asked several validation/quality control questions.

Respondents were required to enter their date of birth to enter the survey and the date they entered was required to match the birth date on record with the sample provider (Toluna) for that panelist or they were unable to continue. At the end of the screening section, respondents were also asked to select their age range and if the range they selected did not match their date of birth, then they were unable to continue on to the main survey.⁸ These procedures reasonably ensured the identity of the respondent and minimized the chance that any surveys were completed by individuals other than invited panelists to a negligible level.

In a later question, respondents were instructed to select the answer choice "blue" out of four choices of colors to continue.⁹ This question permitted me to screen out respondents who were paying insufficient attention or clicking responses indiscriminately.

Additionally, all respondents who passed the screening criteria were shown the following instructions:

You have qualified to take this survey. Before continuing, please carefully read these instructions:

- Please take the survey in <u>one</u> session without interruption.
- While taking the survey, please do not consult any other websites or other electronic or written materials.
- Please answer all questions on your own without consulting any other person.
- If you normally wear eye glasses or contact lenses when viewing a computer screen, please have them on for the survey.

Only respondents who then indicated that they understand and agree to the above instructions were able to continue with the survey.

⁸ Thirty-four respondents were removed because they did not select the age range that matched their date of birth.

⁹ Three respondents were terminated for not selecting blue.

Finally, a review of all open-ended responses was completed to determine if any respondents who typed in non-responsive comments or gibberish responses needed to be removed from the data.¹⁰

The requirement that respondents type in their date of birth, along with the other quality questions and the review of open-ended answers also ensures that surveys are not completed by a computer program.

DATA PROCESSING

Data was collected by Decipher and made available to ORC International through an electronic portal on an ongoing basis. The data set showing each respondent's answers to all questions will be provided in electronic form.

INTERVIEWING PERIOD

Interviewing was conducted from April 24, 2014 through June 25, 2014.

¹⁰ Five respondents were removed for entering nonsense answers.

DETAILED FINDINGS

Confusion Survey

As discussed earlier, the Test Groups of the confusion survey simulated searches for the terms "Sleep Number bed," "Sleep Number," and "Comfortaire," and tested respondents' perceptions of the resulting listings.

Group 1: Sleep Number Bed

When asked which search result or results, if any, respondents believe are websites that are operated by the company that makes Sleep Number beds, 5% of respondents (10 out of 200) in Test Group 1 mistakenly identified The Personal Comfort Bed listing (with the description, "Sleep 55% Off Number Bed").

Next, these respondents were asked which other results, or results, if any, they believe are websites where they can purchase a Sleep Number bed. An additional 80 respondents in Test Group 1 (40.0%) selected the Personal Comfort Bed listing.

Adding these respondents to the initial respondents who answered that the Personal Comfort Bed listing is a website operated by the company that makes Sleep Number beds, brings the total proportion of confused respondents in Test Group 1 to 45.0%. This is illustrated in the following table:

Total Confusion Test Group 1:	
Operated by company that makes Sleep Number beds	5.0%
Can purchase a Sleep Number bed	40.0%
Total Confusion Test Group 1	45.0%

Among the Control respondents for Group 1, 2.5% of respondents (5 out of 200) answered that the Control (non-misleading) version of The Personal Comfort Bed listing is operated by the company that makes Sleep Number beds.

Then, when asked which other result, or results, they believe are links to websites where they can purchase a Sleep Number bed, an additional 39 Control respondents (19.5%) selected the Personal Comfort Bed listing.

Adding these respondents to the initial Control respondents who answered that the Personal Comfort Bed listing is a website operated by the company that makes Sleep Number beds, brings the total noise level among Control respondents in Group 1 to 22.0%, as displayed by the following table:

Total Noise Control Group 1:	
Operated by company that makes Sleep Number beds	2.5%
Can purchase a Sleep Number bed	19.5%
Total Noise Control Group 1	22.0%

This then results in a NET confusion level of 23.0%, for Group 1, as displayed in the following table:

Net Confusion Group 1:		
Test Group 1	45.0%	
Control Group 1	22.0%	
NET Confusion Group 1	23.0%	

Group 2: Sleep Number

When Test Group 2 respondents were asked which search result or results, if any, they believe are websites that are operated by the company that makes Sleep Number beds, 10.5% (21 out of 200) mistakenly selected The Personal Comfort Bed listing (with the description, "Number Bed Sleep Sale 60% - Closeout Sale").

Next, when asked if they think any other listings are for websites where they can purchase a Sleep Number bed, an additional 97 respondents in Test Group 2 (48.5%) selected the Personal Comfort Bed listing.

Adding these respondents to the initial Test Group 2 respondents who answered that the Personal Comfort Bed listing is a website operated by the company that makes Sleep Number beds brings the total proportion of confused respondents in Test Group 2 to 59.0%. This is illustrated in the following table:

Total Confusion Test Group 2:	
Operated by company that makes Sleep Number beds	10.5%
Can purchase a Sleep Number bed	48.5%
Total Confusion Test Group 2	59.0%

Among the Control respondents for this group, 2.0% (4 out of 200) answered that the Control (non-misleading) version of The Personal Comfort Bed listing is to a site operated by the company that makes Sleep Number beds.

Then, an additional 43 respondents (21.5%) selected the Personal Comfort Bed listing in response to the follow-up question regarding which other listings, if any, they believe are to websites where a Sleep Number bed can be purchased.

Adding these respondents to the initial Control respondents who answered that the Personal Comfort Bed listing is a website operated by the company that makes Sleep Number beds, brings the total level of noise among Control Group 2 respondents to 23.5%, as displayed by the following table:

Total Noise Control Group 2:	
Operated by company that makes Sleep Number beds	2.0%

Can purchase a Sleep Number bed	21.5%
Total Noise Control Group 2	23.5%

This then results in a NET confusion of 35.5%, for Group 2, as displayed in the following table:

Net Confusion Group 2:	
Test Group 2	59.0%
Control Group 2	23.5%
NET Confusion Group 2	35.5%

Group 3: Comfortaire

When asked which search result or results, if any, Test Group 3 respondents believe are for websites that are operated by the company that makes Comfortaire beds, 17.5% of respondents (35 out of 200) mistakenly selected The Personal Comfort Bed listing (with the description, "Comfort Air Beds On Sale" and the link, www.personalcomfortbed.com\vComfortaire).

Then, an additional 83 Test Group 3 respondents (41.5%) selected the Personal Comfort Bed listing, when asked what other listings, if any, they believe are to websites where they can purchase a Comfortaire bed.

This brings the total number of confused respondents in Test Group 3 to 59.0%. This is illustrated in the following table:

Total Confusion Test Group 3:	
Operated by company that makes Sleep Number beds	17.5%
Can purchase a Sleep Number bed	41.5%

Total Confusion Test Group 3	59.0%

Among Control respondents for this Group, 12.0% (24 out of 200) answered that the Control (non-misleading) version of The Personal Comfort Bed listing is operated by the company that makes Comfortaire beds.

Then, an additional 50 respondents (25.0%) selected the listing when asked which other listings, if any, they believed are for sites where a Comfortaire bed can be purchased.

This bring the noise level to 37.0% for Control Group 3, as displayed by the following table:

Total Noise Control Group 3:	
Operated by company that makes Sleep Number beds	12.0%
Can purchase a Sleep Number bed	25.0%
Total Noise Test Group 3	37.0%

This results in a NET confusion of 22.0%, as displayed in the following table:

Net Confusion Group 3:	
Test Group 3	59.0%
Control Group 3	37.0%
NET Confusion Group 3	22.0%

Respondents' Reasons for Mistakenly Believing the Personal Comfort Bed Listing Is a Website Operated by the Company that Makes Sleep Number/Comfortaire Beds, Or a Website Where They Could Purchase A Sleep Number/Comfortaire Bed

There were several general themes which emerged through respondents' open-ended answers to the questions, "What makes you think so?" after mistakenly selecting the Personal Comfort Bed listing as a website that either is operated by the company that makes Sleep Number beds or Comfortaire beds, or is a place where a Sleep Number bed or Comfortaire bed can be purchased. These themes include:

- The actual web address contains the name (i.e.: "sleepnumber" or "comfortaire")
- Use of the words "Sleep" and/or "Number"
- Use of the words "Comfort(aire)" and/or "Air" and/or "Bed"
- The description and/or tagline and/or heading indicates it
- It appears to be a site that offers several brands and/or has left over stock and/or offers a discounted or sale prices

These tables show the open-ended answers given by Test Group respondents as to why they believed the Personal Comfort Bed listings are websites that are operated by the company that makes Sleep Number or Comfortaire beds, or are places where they can purchase a Sleep Number or Comfortaire bed:¹¹

¹¹ Some responses include more than one theme; therefore, these responses will appear more than once within the table.

Test Group 1: Sleep Number Bed

Respondent ID	Q235/Q245 Coded: The actual web address contains the name (i.e.: "sleepnumber")
549	has sleep number in the url
	The terms Sleep & Number Beds ; the web address
966	personalcomfortbed.com/vSleepNumber 7Bed Sale
1259	has company name in url
2412	it has the http under the heading
2981	It is part of the web address
3813	the extension that reads 'sleep number'
5422	the website name / sleepnumber
6394	says sleepnumber in url
6861	says bed sale ends 6/10 and the web site has /sleep number in it and mentions costs and savings
7155	/SleepNumber
7262	it said 55% off number bedslink has sleepnumber
7817	Says sleep number in it's web address
9048	BECAUSE SLEEP NUMBER APPEARS IN THE URL
9201	The site name references SleepNumber - however, I would look at the site to determine if it is really a SleepNumber bed or they are just using the phrase to lure people to their site. If so, I would refuse to buy anything from them, even at a good price.
7201	The URL ends in Sleep Number. It would not be my first choice to visit
9213	if I wanted to visit sites where I could purchase a Sleep Number bed, but I might check it out to see if it does have anything to do with Sleep Number like it seems to suggest.
	the websites name compels myself to believe that I can purchase the bed on their site, unlike a wikipedia, youtube, or ask jives results. It also says bed sale and the url is more likely to be an online shopping
10188	site.
10424	SleepNumber is found in the website
11158	it has sleepnumber in the web address
11302	the last word of the web address
11580	Because the address includes the name SleepNumber.
11658	phone number web address
11703	url + pricing
12235	It says right on the link that you can purchase sleep number beds and some are 55% off.
12786	numbers are indicated, URL says sleep number
13476	sleep number is listed after the back slash which normally means it takes you directy to a page selling sleep numbers beds
14027	because after the.com it has /vsleepnumber

	It seems to sell sleep number beds and the web address has sleep
15212	number in it, but on closer inspection, it may not sell them.
15590	/vSleepNumber
	This result made me think that I could purchase a sleep number bed
	because the website says personal comfort bed.com/vSleepNumber
	which leads me to believe that this is a store that sells beds and Sleep
15619	Number is one of the brands they carry.
17065	The words sleepnumber are in the url.
19667	Sleep number in address.
20191	Because it tags Sleep Number at the end of its information.
	The url path is /vSleepNumber, so i assume they have Sleep Number
21854	beds.
22542	/sleepnumber
	The URL mentions SleepNumber and the site description mentions
	Save \$2000 Also the title, though awkwardly presented, appears to
22999	say you can get Sleep Number beds at up to 55% off.

Respondent ID	Q235/Q245 Coded: Use of the words "Sleep" and/or "Number"
	The terms Sleep & Number Beds; the web address
966	personalcomfortbed.com/vSleepNumber 7Bed Sale
2283	the fact that the words sleep and number are in the header twice
5292	says bed sale with sleep number beds, Sleep 55% off
	Maybe not The Sleep and Number Beds are not connected so it looks like they are trying to look like Sleep Number Beds. Also the website
7238	name is personalcomfortbed.com not sleepnumberbed.com
7262	it said 55% off number bedslink has sleepnumber
8334	The ad says purchase a sleep number bed
9825	It states sleep number beds at 55 percent off.
13034	Because the ad has the Sleep Number name and sale info in it
13782	Because they are offering a percentage off a purchase of a sleep bed
14760	the word SleepNumber
15025	It says that they sell Number Beds with 55% discount.
15366	It says 55% off Number Beds
17095	It says 55% off number beds.
18943	It says 55% off number beds
19331	It says save 55% off number beds.
23041	It says bed sale and lists 55% of number beds

Respondent ID	Q235/Q245 Coded: The description and/or tagline and/or heading indicates it
9220	Description
20736	the name is mentioned below and split on top
	Because in the description its says Bed Sale. Also it has a 55% off on
21774	beds
22676	Because it appears to be a retailer that sells this brand of mattress.
	they have a website and phone number in which to inquire about and
22756	purchase a sleep number bed

Respondent ID	Q235/Q245 Coded: It appears to be a site that offers several brands and/or has left over stock and/or offers a discounted or sale prices
343	online edition bed sale & it gives prices
2160	Mention of Sale
2170	It says bed sale and 55% off
5292	says bed sale with sleep number beds, Sleep 55% off
6861	says bed sale ends 6/10 and the web site has /sleep number in it and mentions costs and savings
7534	I assumed that there were old stock sleep number beds that are being sold at discounted
9770	its says sale and has details for a discount
10149	the words bed sale AS WELL AS amount
	the websites name compels myself to believe that I can purchase the bed on their site, unlike a wikipedia, youtube, or ask jives results. It also says bed sale and the url is more likely to be an online shopping
10188	site.
10193	it doesnt say the name but it does say beds i would go to the website if they carry the sleep number brand.
11252	The 55% Off indicates a discount on a price and the words 'bed sale' along with prices would make me believe I could purchase a Sleep Number here.
12031	There is a phone number and there is a sale indicated. I would think it might be such a website and would probably check it out.
12826	It advertised sale prices
13018	It gives you a contact number and states on that edition of the .bed you could possibly save 55% off or \$2000 in savings
13136	Says Online Edition Bed Sale
14169	Because they are offering a sale price.
14870	
	It says 55% off Number Beds
15619	This result made me think that I could purchase a sleep number bed

	because the website says personal comfort bed.com/vSleepNumber which leads me to believe that this is a store that sells beds and Sleep
	Number is one of the brands they carry.
	there is a discount for buying one; an 800 number to order them; there's
16607	a line that indicates a sale on beds
17095	It says 55% off number beds.
18232	it says there is a sale on it and has a phone number so
	It provides a percentage off the price as well as an 800 number.
18794	Mentions a sale going on.
18943	It says 55% off number beds
19464	It mentions a sale on their website.
19937	55% off bedding
22676	Because it appears to be a retailer that sells this brand of mattress.
23041	It says bed sale and lists 55% of number beds

Test Group 2: Sleep Number

Respondent ID	Q235/Q245 Coded: The actual web address contains the name (i.e.: "sleepnumber")
415	because the URL has /vSleepNumber at the end
514	It has SleepNumber in link
947	It says they are having a sale so it sounds like you can buy items here and it says the name sleep number in the link so it looks like they sell this brand
2532	
2786	words in title, sleep number in web address
3548	Now that I notice the v before SleepNumber, I no longer think so.
4896	because of the way they list their webpage
	After personalcomfortbed.com it has vSleepNumber; sinceit has Sleepnumber in the address I would think that means you can go to the
6162	SleepNumber page at the store website.
6167	the /sleepnumber at the end of the web address
7046	The add link ends in SleepNumber.
7612	Uses the words Sleep Number in the link; Number Bed Sleep makes you think its for Sleep number;
7773	SleepNumber is in the address
	Sleep Number is in the actual web address and I assumed that was a
7819	page within the above site dedicated to Sleep Number beds.
8269	the website slash sleep number
8465	It has sleep number in the address
8573	it had sleep number in the web address, offers sales on mattresses

8675	The link
9467	the website
9707	I see the sleep number term contained in the link.
10031	sleepnumber is included in the url
10275	well. becasue the website gave it away, it said sleep number
10388	Talks about a closeout sale and the link has sleep number in it.
10400	sleepnumber at the end of the website address
10449	the link in green
10927	the word sleepnumber after the website
10996	Title Number Bed Sleep with Sleepnumber at end of url
	because it has SleepNumber in the web address, and it has a closeout
11104	sale as well
11514	THEIR WEB SITE ADDY & 888 NUMBER
	sorrywhen I first read it I SleepNumber on the dot com address. But
	as I look at it closer it sans comfortbed v. SleepNumberso I'm pretty
11540	sure they are promoting & selling Comfort Bed not Sleep Number
13448	it has sleep number in the green link
13542	It has SleepNumber on the end of the url
13552	/sleepnumber
	It seems like a website that sells mattresses. It has /sleepnumber in the
13743	website name.
14927	in the address it has seep number bed
15133	Because it looks like an ad for a company that sells beds. The word sleep number appears in the url link as well.
	Because of the /vSleepNumber, but now I see the v which I didn't
15306	when I looked at it.
16617	it states there is a sale and sleep number is in the link
	I made a mistake. I now see a v in front of the word SleepNumber. I
	think it's a ruse to get people searching for Sleep Number to open their
16916	site.
19651	website noted sleepnumber
19669	It has vSleepnumber in the websitting
22634	The name of the Website.
22977	becusce it says personal comfart bed.com/sleepnumber
	They either linked directly to the company website, or had the actual
23329	words sleep number in the link or ad.

Respondent ID	Q235/Q245 Coded: Use of the words "Sleep" and/or "Number"
775	Cuz it says SleepNumber on top
	It list the name of the bed as well as states that it is for sale at a
1713	discounted price
6590	because it says numberbedsleepsale
	Uses the words Sleep Number in the link; Number Bed Sleep makes
7612	you think its for Sleep number;
7791	it says sleep number
	Through written statements Number Bed sleep And written words
9219	such as closeout sale
10996	Title Number Bed Sleep with Sleepnumber at end of url
12151	Try In-Home Risk Free, Number Bed Sale
	It says sale closeout 60%, although it is not clear if it is a sleep number bed. Just number bed. The link is different though almost like a
13037	comparison.
13159	•
13316	they advertised selling the sleep number bed
14845	It said closeout number bed sleep sale
15016	because it says number bed sleep
15380	its got sleep number written in it
	The fact that there is a sale on Number beds implies that they, in fact,
16271	sell them.
	sleep number closeout sale showed. may be knock off upon further
21706	review
22536	it has the name sleepnumber in the title
23202	Has a list of prices for sleep number beds. FDA registered

Respondent ID	Q235/Q245 Coded: The description and/or tagline and/or heading indicates it
2786	words in title, sleep number in web address
9300	I read their text.
	because it was in the ad the contact number u need to call and site
12769	itself,they are on sale
14366	the wording. looking closer i dont think i could.
19917	The title

Respondent ID	Q235/Q245 Coded: The fact that it is a sponsored ad
13623	its a google ad thats usually legit. it provides a phone number
15424	ad

Respondent	Q235/Q245 Coded: It appears to be a site that offers several brands
ID	and/or has left over stock and/or offers a discounted or sale prices
223	-
	I don't know. It doesn't say a specific brand so I think that you might be
528	able to find one on this site.
	It indicates that there is a closeout sale. Also free shipping indicates
594	that you can purchase items.
	It says they are having a sale so it sounds like you can buy items here
	and it says the name sleep number in the link so it looks like they sell
947	this brand
1033	close out sale
2096	It says it has a closeout sale and try in-home 'risk free'
2235	closeout sale
5193	it says closout sale
5905	It says there is a sale
	Because it says that it is a Fda registered facility as well as stating the
7225	sale
8013	Because it looks like a store where you can buy a bed online.
8307	Ad for 60% sale
8867	it talks about a sale
9037	60% closeout sale
	Through written statements Number Bed sleep And written words
9219	such as closeout sale
9789	It says Sale 60% - Closeout Sale which means they are selling beds
10388	Talks about a closeout sale and the link has sleep number in it.
10799	it appears to be a private store that sells sleep number beds
	because it has SleepNumber in the web address, and it has a closeout
11104	sale as well
12168	Because it's an ad about a company that is closing down.
	because the ad seems to have beds at close out prices although now
12876	that i read it again im not sure they vactually have seep number beds
	It says sale closeout 60%, although it is not clear if it is a sleep number
	bed. Just number bed. The link is different though almost like a
13037	comparison.
	It seems like a website that sells mattresses. It has /sleepnumber in the
13743	website name.
13940	possible warehousing site. Sale 60% and closeout sale all indicate

	being able to purchase or at the very least, be redirected.
14162	Mentions 60% off and closeout Sale
14845	It said closeout number bed sleep sale
15014	it mentions closeout sale
15595	it says closeout sale. it claims to be a facility, with free schipping.
	The fact that there is a sale on Number beds implies that they, in fact,
16271	sell them.
16845	SAYS 60% OFF CLOSEOUT SALE
18213	says 60% sale
18341	the term Closeout Sale and Compare Now
18623	Closeout sale, free ship, pillow, no tax, try in-home risk free.
19109	I have seen sites like this where a multitude of items are sold.
19329	sale price
	It says 60% off sale, actually i'm not 100% sure they'd have sleep
19490	number but they'd have a similar product if they didn't
20881	They may carry multiple manufacturers
	sleep number closeout sale showed. may be knock off upon further
21706	review
22694	it looks like they sell them as they have a category for them
23021	because it says closeout sale.

Test Group 3: Comfortaire

Respondent ID	Q235/Q245 Coded: The actual web address contains the name (i.e.: "comfortaire")
1828	the website it self
2013	from the address below
2825	looks like a company link
	Well, seeing the word comfortaire at the end of the link makes me think I
3266	could purchase from the site
3757	because of the comfortaire back slash at the end
	The URL specifies the third-parties website address as well as advertise the
5893	sale dates for the product I am looking for.
8275	looks like it would take you directly to their web site
9495	NAME IN THE WEB ADDRERSS
	the site reads like a sales website (personalcomfortbed.com) and
	(/comfortaire) which would indicate the brand. Also, the link is titled comfort
10531	air beds on sale
	It leads me to believe they sell beds, and it has Comfortaire in the web
11526	address.
11751	because is appears to be a place you can buy mattresses AND the / goes to

	Comfortaire screen
12157	Comfort Air is right in the heading and in the URL of the website.
12237	Its has comfortaire in the website description
13405	THE LAST PART OF THE WEBSITE
13751	it shows the brand Comfortaire on the URL
	It lists Comfortaire in the website address, so I think it might be a specifically
14684	operated website, rather than a general sale site.
	It says it's an online bed sale and the keyword comfortaire is in the web
15012	address. I would therefore at least look there.
15279	the word Comfortaire is last word listed on the web address
15531	Because it has a comfortaire hashtag and it is advertising the sale of beds.
15634	It says on sale in the header and it has Comfortaire in the link.
	Because usually the best place to buy something is directly from the company
	that makes it and in the URL it says comfortaire which usually means thats
15693	the actual company.
15828	because at the end it has / Comfortaire
16309	the word/name Comfortaire in the web address
16887	in the end says comfortaire
18270	It has Comfortaire in the web address.
	The name, Comfortaire is written in the url, and the fact that is states they are
	having an online edition bed sale who has edition items for release before
18927	the owner? That is, legally!
19244	online edition bed sale *ends 3/17 and the url ends with Comfortaire
19484	it states it's name in the web address
19947	www.personalcomfortbed.com/vcomfortaire
20346	The name brand in the webpage, Comfortaire.
22098	It has the name in the URL
23332	because it has the name in the web address and states the beds are on sale

Respondent ID	Q235/Q245 Coded: Use of the words "Comfort(aire)" and/or "Air" and/or "Bed"
242	They have the word comfortaire
339	beacause it says comfort air beds on sale
3907	comfort
4021	words comfortaire bed sale
5444	It clearly states Comfort Air Beds on Sale.
6148	It stated that Comfort Air Beds are on sale and the sale ends 3/17
6850	the name comfortaire is mention as bed on sale
9710	air beds on sale - comfortaire
11035	it says comfort air beds on sale
12157	Comfort Air is right in the heading and in the URL of the website.
12355	the heading mentions comfort air beds on sale

14290	Word sale, date of sale end as well as brand name
15129	the title is 'Comfort Air Beds On Sale'
	The headline says comfort air beds on sale so I assume you can buy these beds
15297	also.
17031	Describes Air beds being on sale.
17544	it states cofort air bed on sale
19370	It says Comfort Air and Bed Sale
19492	its a site that sells beds and it mentions the brand comfortaire
20122	www.personalcomfortbed.com sounds like its a website for comfortair
20407	It mentions about comfort air beds.
22680	They have air beds on sale.
22898	it states air beds on sales: comfortaire
23010	it says Comfort Air Beds On Sale, that makes me think they are selling them
23105	because it shows that the comfort air beds are available on sale

Respondent ID	Q235/Q245 Coded: The description and/or tagline and/or heading indicates it
619	The title and description mention the brand.
3495	The heading
4322	The title says the bed is on sale (online edition).
5122	THAT IS A TAGLINE
5680	because it says so
	The language indicates that the Comfortaire is included in the online edition
6445	bed sale.
7222	The title
9602	because it states so on the ad and they are on
15233	because it says they're on sale?
	The headline says comfort air beds on sale so I assume you can buy these beds
15297	also.
16790	Bed Sale is written in description
19103	by the name of it.

Respondent ID	Q235/Q245 Coded: The location the listing appeared among the results
13462	showed up at the top of the page
13841	Because it is right at the top of the ad highlighted in pink.

Respondent ID	Q235/Q245 Coded: The fact that it is a sponsored ad
23347	Its an adv.

Respondent			
ID has left over stock and/or offers a discounted or sale prices			
	Because the line online edition bed sale implies that those sales are only good for the beds they have for sale online and must be sold by 3/17 to get		
1679	the special online pricing		
1839	it states that these beds are on sale at this site		
2826	it has beds on sale		
3576 It says Online Edition Bed Sale right in the ad. 4322 The title says the bed is on sale (online edition). 4694 mention the word sale			
		4884	
	says they have sales says there on sale.		
6010			
6445	The language indicates that the Comfortaire is included in the online edition bed sale.		
7938	The ad states On Sale, so it's probably a place to buy a comfortaire bed.		
8608	because they are on sale		
	I am thinking this is a more general website that sells multiple brands of		
9884	mattresses.		
10841	Online Edition Beds on sale		
	It looks a site that have different name brand beds, I'm sure comfortaire is		
11866	one.		
12057	it states beds on sale and gives a date sale ends		
13249	It says Bed Sale		
13536	on the site mentions the promotion will this product		
13582	It states beds on sale		
14196	they are on sale not to pricey		
14493	It says there is a sale going on		
	It says it's an online bed sale and the keyword comfortaire is in the web		
15012	address. I would therefore at least look there.		
15634	It says on sale in the header and it has Comfortaire in the link.		
	It was just for research. I did notice that the name was spelled different and		
16150	was not sure if it was the same company. I just thought I would check it out.		
16314	They are advertising an online bed sale		
16395	It says beds on sale		
16417	Looks like the name of an online retail site.		
18632	Says theyre onsale		
19082	it says on sale		
19180	It reads just like a commercial website for products such as this.		
19244	online edition bed sale *ends 3/17 and the url ends with Comfortaire		
19492	its a site that sells beds and it mentions the brand comfortaire		
19672	Because it says that there is a sale running through 3/17		

		It is because of the title, the sub-directory, and the brief description of this	
21213 aggregated price comparison website.		aggregated price comparison website.	
	21929	because it says you can buy online on sale	
		It suggests they sell air beds since they mention beds on sale, so I think they	
23163 sell the Comfortaire bed as well.		sell the Comfortaire bed as well.	
	23332	because it has the name in the web address and states the beds are on sale	

Confusion Survey Conclusions

Based on the survey results, it is my opinion that there is a likelihood that consumers who encounter the Personal Comfort Bed listings tested after searching for the terms "Sleep Number," "Sleep Number bed," or "Comfortaire" will be confused into believing the listings are for websites that are operated by the company that makes Sleep Number or Comfortaire beds or websites where you can buy a Sleep Number of Comfortaire bed.

Teflon Survey

As discussed earlier, the Teflon survey is designed to measure whether consumers perceive "Sleep Number" to be a brand name or a common name.

The name Sleep Number was tested along with three brand names and three common names that can be used as benchmarks against which the extent that consumers perceive Sleep Number to be a brand or common name can be measured.

Among 200 respondents in the Teflon survey, 167 (83.5%) answered that they believe "Sleep Number" is a brand name. This represents an overwhelming majority of mattress purchasers and makes clear that Sleep Number is primarily perceived as a brand name.

As the following table shows, the rate of belief that Sleep Number is a brand name is also in line with the proportion of respondents who believe that other brand names included in the survey are in fact brand names.

This table illustrates the proportion of respondents who believe each of the following names included in the survey are brand names:

Proportion of Respondents Who Believed Each Brand Name Is A Brand Name:	
BEAUTYREST	92.5%
POSTUREPEDIC	87.5%
SLEEP NUMBER	83.5%
TEMPUR-PEDIC	75.5%

This result is also validated by the fact that only low percentages of respondents identified the common terms shown as brand names.

The following table displays the proportion of respondents who believe each of the following common names are brand names:

Proportion of Respondents Who Believed Each Common Name Is A Brand Name:		
MEMORY FOAM	18.0%	
FIRMNESS SETTING	1.0%	
ADJUSTABLE AIR BED	2.0%	

This affirms that the 83.5% rate of identifying Sleep Number as a brand name represents genuine recognition of Sleep Number as a brand and cannot be dismissed as the product of any respondent or survey error.

Teflon Survey Conclusions

Based on the Teflon survey results, it is my opinion that consumers overwhelmingly recognize "Sleep Number" as a brand name and that it is not generic.

OPINIONS REGARDING BUTLER AND REITTER SECONDARY MEANING SURVEYS

1. Reitter Survey Concerning Sleep Number Mark

Robert Reitter conducted a random digit dial telephone survey using a list of randomly generated landline numbers supplemented by a list of cellphone numbers. A total of 300 qualified respondents were read a number of terms in connection with mattresses and were asked for each one whether they associate the term with the mattresses of only one company or more than one company. A more detailed description of the Reitter Survey is provided in the Reitter Report (SCC0035039, SCC00035040, SC00035074).

Of the 300 respondents who were read the term SLEEP NUMBER, 62% answered that they associate the term with the mattresses of only one company while only 8% answered that they associate SLEEP NUMBER with more than one company. The 62% rate of associating SLEEP NUMBER with the mattresses of only one company was directionally higher than and statistically equivalent to the rates for other well-known mattress brands POSTUREPEDIC (59%) and BEAUTY REST (57%).

The survey also contained two terms that functioned as proper controls because they are not trademarks of one source – ADJUSTABLE AIR BED and INNER SPRING. A total of 8% of respondents answered that they associated INNER SPRING with the mattresses of one company and 20% gave this answer for ADJUSTABLE AIR BED. These dramatically lower rates validate that the 62% result for SLEEP NUMBER represents genuine consumer association of the term SLEEP NUMBER with a single source of mattresses and cannot be dismissed as the product of respondent guessing or inattention or any other respondent or survey error. Accordingly, it is my opinion that the Reitter Survey supports a finding that the term Sleep Number has acquired secondary meaning. It is also worth noting that the Reitter Survey result is generally

consistent with my own survey, which found that the large majority of respondents perceived the term "Sleep Number" to be a brand name and not a common term.

II. Butler Survey Concerning Number Bed Mark

Sarah Butler conducted a telephone survey using a very similar methodology as the Reitter survey described above, and detailed in the Butler Report (SCC00034951, SCC00034952, SCC00035038). In the Butler Survey, a total of 48% of respondents answered that they associate the term NUMBER BED with the mattresses of only one company, as compared to only 9% who associated the term with more than one company. This result is comparable to the rate for other brand names asked about in the survey, TEMPUR-PEDIC (48%) and BEAUTY REST (53%).

The Butler Survey also contained a control. Respondents were also asked about the term INNER SPRING. The low (3%) rate of respondents answering that they associate the term INNER SPRING with the mattresses of only one company validates that the higher 48% result for the term NUMBER BED reflects genuine consumer association of the term NUMBER BED with a single source and cannot be dismissed as the product of respondent guessing or inattention or other forms of survey or respondent error. Accordingly, it is my opinion that the Butler Survey supports a finding that the term Number Bed has acquired secondary meaning.

Consistent with the verbatim responses given by respondents in my confusion survey described above, a substantial number of verbatim responses in the Butler survey also identified Sleep Number (or Select Comfort) as the single source with which consumers associate the term Number Bed.



APPENDIX A CURRICULUM VITAE OF STUDY'S AUTHOR

Hal L. Poret

(hal.inc42@gmail.com; 914-772-5087)

Education

1998

Harvard Law School, J.D., cum laude

- Editor/Writer Harvard Law Record
- Research Assistant to Professor Martha Minow

1995

S.U.N.Y. Albany, M.A. in Mathematics, summa cum laude

- Statistics
- Taught calculus/precalculus/statistics

1993 Union College, B.S. in Mathematics with honors, magna cum laude

- Phi Beta Kappa
- Resch Award for Achievement in Mathematical Research

Employment

2004 - Senior Vice President, ORC International

- Designed, supervised, and analyzed over 700 consumer surveys, including Trademark, Trade Dress, Advertising Perception, Fraud/Consumer Deception, Claims Substantiation studies, Damages, and Corporate Market Research Surveys
- Provided expert testimony at deposition and/or trial regarding survey research in over 50 U.S. District Court litigations and proceedings in front of TTAB, NAD and the FTC.
- Review and comment on third party surveys

2003 – 2004 Internet Sports Advantage

 Developed and marketed proprietary internet sports product, and licensed trademark and intellectual property rights.

1998 – 2003 Attorney, Foley Hoag & Eliot, Boston, MA

- Represented corporations and individuals in trademark, trade dress, advertising, product, and related legal disputes.
- Worked with survey experts in developing and using surveys as evidence in trademark, trade dress and advertising disputes.
- Advised clients in the selection, adoption, use, licensing, and protection of trademarks/trade dress; represented clients in trademark/trade dress litigations, administrative proceedings before the Trademark Trial and Appeal Board and United States Patent and Trademark Office, and domain name proceedings under the Uniform Domain-Name Dispute-Resolution Policy.

Testimony at Trial or by Deposition (Party who retained me shown in bold)

2014	Amy's Ice Creams v. Amy's Kitchen (Deposition)	USDC Western District of TX	
2014	Quoc Viet v. VV Foods (Deposition)	USDC Central District of CA	
2014	Unity Health v. UnityPoint (Deposition)	USDC Western District of WI	
2014	In re: NCAA Student-athlete litigation (Deposition and Trial)	USDCNorthern District of CA	
2014	Spiraledge v. SeaWorld (Deposition)	USDC Southern District of CA	
2014	Diageo N.A. v. Mexcor (Deposition)	USDC Southern District of TX	
2014	Pam Lab v. Virtus Pharmaceutical (Deposition and trial)	USDC Southern District of FL	
2014	US Soccer Federation v. Players Ass'n (Arbitration Testimony)	Arbitration	
20142014	3	Arbitration USDC Southern District of NY	
	(Arbitration Testimony) Estate of Marilyn Monroe v. AVELA		
2014	(Arbitration Testimony) Estate of Marilyn Monroe v. AVELA (Deposition) Kelly-Brown v. Winfrey, et al.	USDC Southern District of NY	
20142014	(Arbitration Testimony) Estate of Marilyn Monroe v. AVELA (Deposition) Kelly-Brown v. Winfrey, et al. (Deposition) Virco Mfg v. Hertz & Academia	USDC Southern District of NY USDC Southern District of NY	
201420142014	(Arbitration Testimony) Estate of Marilyn Monroe v. AVELA (Deposition) Kelly-Brown v. Winfrey, et al. (Deposition) Virco Mfg v. Hertz & Academia (Deposition) PODS v. UHAUL	USDC Southern District of NY USDC Southern District of NY USDC Central District of CA	

2013	Bubbles, Inc. v. Sibu, LLC. (Deposition)	USDC Eastern District of VA
2013	Clorox v. Industrias Dalen (Deposition)	USDC Northern District of CA
2013	Globefill v. Elements Spirits (Deposition and trial)	USDC Central District of CA
2013	Active Ride Shop v. Old Navy (Deposition and trial)	USDC Central District of CA
2013	Macy's Inc. v. Strategic Marks LLC. (Deposition)	Northern District of CA
2013	Karoun Dairies, Inc. v. Karoun Dairies , (Deposition)	Inc. Southern District of CA
2013	Kraft Foods v. Cracker Barrel Old Coun (Deposition and Trial)	try Southern District of NY
2013	Bayer Healthcare v. Sergeants Pet Care (Deposition and Trial)	USDC Southern District of NY
2013	JJI International v. The Bazar Group, In (Deposition)	c. USDC District of RI
2013	Fage Dairy USA v. General Mills (Deposition)	Northern District of NY
2013	Gameshow Network v. Cablevision (Deposition)	F.C.C.
2013	Telebrands v. Meyer Marketing (Deposition)	USDC Eastern District of CA
2012	Marketquest v. BIC (Deposition)	USDC Southern District of CA
2012	Hornady v. DoubleTap (Deposition)	USDC District of Utah
2012	Briggs/Kohler Opposition to Honda (Deposition)	TTAB

2012	Apple v. Samsung (Deposition and Trial)	USDC Northern District of CA
2012	Forest River v. Heartland (Deposition)	USDC Northern District of IN
2012	SPD v. Church & Dwight (Deposition)	USDC District of NJ
2012	Brighton Collectibles v. Texas Leather (Deposition)	USDC Southern District of CA
2012	Cytosport v. Vital Pharmaceuticals (Deposition)	USDC Eastern District of CA
2012	Authors Guild v. Google (Deposition)	USDC Southern District of NY
2012	Clear Choice v. Real Choice (Opposition testimony)	TTAB
2011	Borghese v. Perlier et al. (Deposition)	USDC Southern District of NY
2011	My Favorite Company v. Wal-Mart (Deposition)	USDC Central District of CA
2011	PepsiCo v. Pirincci (Opposition testimony)	TTAB
2011	GAP Inc. v. G.A.P. Adventures (Trial)	USDC Southern District of NY
2011	Merck Eprova v. Brookstone (Deposition and trial)	USDC Southern District of NY
2011	Wella, Inc. v. Willagirl LLC (Deposition)	USDC Southern District of NY
2011	Bauer Bros. v. Nike (Deposition)	USDC Southern District of CA
2011	Aviva Sports v. Manley (Deposition)	USDC District of Minnesota

2011	American Express v. Black Card LLC (Deposition)	USDC Southern District of NY
2011	Gosmile v. Dr. Levine (Preliminary Injunction Trial)	USDC Southern District of NY
2010	Nat'l Western Life v. Western Nat'l Life (Deposition)	e USDC Western District of TX
2010	3M v. Mohan (Trial)	USDC District of Minnesota
2010	Active Network v. EA Sports (Preliminary Injunction declaration)	USDC Central District of CA
2010	FIJI Water Co. v. FIJI Mineral USA (Deposition)	USDC Central District of CA
2010	Hansen Beverage v. CytoSport (Deposition)	USDC Central District of CA
2010	People's United Bank v. PeoplesBank (Deposition and Preliminary Injunction	
2010	Don Henley v. Charles Devore (Deposition)	USDC Central District of CA
2010	Pegasus v. Allscripts (Deposition and Mediation)	USDC Middle District of FL
2010	Jelmar, Inc. v. Zep Commercial (Deposition)	USDC Northern District of IL
2010	Dollar Bank v. Emigrant Bank (Deposition)	USDC Western District of PA

Presentations

<u>Cutting Edge Developments in Trademark Surveys</u> (Rocky Mountain Intellectual Property & Technology Institute, May 30, 2013)

<u>Using Survey Experts in Trademark Litigation</u> (DRI Intellectual Property Seminar, May 9, 2013)

<u>Surveys in Trademark and Advertising Litigation</u> (2013 National CLE Conference, Snowmass Colorado, January 2013)

<u>Internet Survey Issues</u> (PLI Hot Topics in Advertising Law Conference, March 2012)

<u>Measuring Consumer Confusion Through Online Surveys</u> (2011 Midwest IP Institute) (September, 2011)

Online Surveys as Evidence in Trademark Disputes (International Trademark Association Annual Conference, May 2011)

Managing Intellectual Property Trademark Roundtable (April 7, 2010)

<u>Recent Trends in Trademark Surveys</u> (Virginia State Bar Intellectual Property Conference, October 2009)

<u>Trademark Surveys in US Litigation</u> (presentation for International Trademark Association Annual Conference) (May 2009)

<u>How to Conduct Surveys for use in Trademark Disputes</u> (Practicing Law Institute Advanced Trademark Law Conference) (May 2009)

<u>Trademark and Advertising Perception Studies for Legal Disputes</u> (Opinion Research Corporation Seminar, June 2008)

<u>Understanding Advertising Perception Surveys</u> (Promotions Marketing Association Annual Law Conference) (November 2007)

<u>Designing and Implementing Studies to Substantiate Advertising Claims</u> (American Conference Institute Claims Substantiation Conference, October 2007)

Surveys in Trademark and False Advertising Disputes (InfoUSA Webinar, June 2007)

Measuring Consumer Perception in False Advertising and Trademark Cases, (multiple presentations) (2007)

<u>Potential Errors to Avoid In Designing a Trademark Dilution Survey</u> (American Intellectual Property Association paper, April 2007)

<u>Consumer Surveys in Trademark and Advertising Cases</u> (presentation at Promotions Marketing Association Annual Law Conference) (December 2006)

<u>Use of Survey Research and Expert Testimony in Trademark Litigation</u>, (International Trademark Association Annual Conference, May 2006)

<u>Survey Research as Evidence in Trademark/Trade Dress Disputes</u> (multiple presentations) (2006)

<u>Using Surveys to Measure Secondary Meaning of Trade Dress</u>, Legal Education Seminar, Boston, April 2006

Publications/Papers

<u>Cutting Edge Developments in Trademark Surveys</u> (Rocky Mountain Intellectual Property & Technology Institute, May 2013)

<u>Hot Topics and Recent Developments in Trademark Surveys</u> (paper for May 2013 DRI Intellectual Property Conference)

<u>Surveys in Trademark and Advertising Litigation</u> (2013 National CLE Conference, Snowmass Colorado, January 2013)

<u>Trademark Litigation Online Consumer Surveys</u> (Practical Law Company Intellectual Property and Technology, May 2012)

<u>Hot Topics in Advertising Law 2012</u> (Contributor to Practising Law Institute publication)

<u>A Comparative Empirical Analysis of Online Versus Mall and Phone Methodologies for Trademark Surveys</u>, 100 TMR 756 (May-June 2010)

Recent Trends in Trademark Surveys (paper for Virginia State Bar Intellectual Property conference, October 2009)

<u>Trademark Dilution Revision Act breathes new life into dilution surveys</u> (In Brief PLI website, June 2009)

The Mark (Survey Newsletter; three editions 2009)

<u>Hot Topics in Trademark Surveys</u> (paper for Practicing Law Institute Advanced Trademark Law Conference) (May 2009)

The Mark (Survey Newsletter, 2008)

<u>Trademark and Advertising Survey Report</u> (Summer 2007)

<u>Avoiding Pitfalls in Dilution Surveys under TDRA</u> (AIPLA Spring Conference, Boston, May 2007)

Commentary

Comment on Hotels.com case (on TTABLOG.COM, July 24, 2009)

Comment on Nextel v. Motorola (on TTABLOG.COM, June 19, 2009)

<u>PLI All-Star Briefing Newsletter</u>, "What does the Trademark Dilution Revision Act mean for the future of Dilution Surveys?" (June 2009)

Professional Memberships/Affiliations

Council of American Survey Research Organizations

International Trademark Association

National Advertising Division of Council of Better Business Bureaus

APPENDIX B QUESTIONNAIRES/INSTRUCTIONS

SCREENER

PROGRAMMING NOTE:

- DO NOT ALLOW RESPONDENTS TAKING SURVEY ON ANY MOBILE DEVICE TO ENTER THE SURVEY. ONLY ALLOW DESKTOP, LAPTOP/NOTEBOOK COMPUTERS.
- DO NOT PERMIT RESPONDENTS TO RETURN TO PREVIOUS SCREEN ONCE ADVANCING.

BASE: ALL RESPONDENTS

100. Please enter your date of birth [PROGRAMMER: TERMINATE IF DOES NOT MATCH PANELIST'S PRELOAD OR IF UNDER 18. CALCULATE AGE RANGES TO DETERMINE OPEN QUOTAS FOR AGE PRIOR TO CONTINUING. CODE AGE RANGE BASED ON DOB]

BASE: ANY NON-TERMINATES

- 105. Are you...
 - 1. Female
 - 2. Male

ASK IF: HAS NOT TERMINATED

110. In what state do you live?

[PROGRAMMER: Drop down menu of states plus D.C.. Include an option for "Other" and terminate if it is selected.]

BASE: ANY NON-TERMINATES

120. Do you or does anyone in your household work in any of the following areas? (Select all that apply)

[RANDOMIZE]

- 1. For a company that makes or sells automobiles
- 2. For a real estate company
- 3. For a veterinarians office or clinic
- 4. For a travel agency
- 5. For a company that makes or sells mattresses/beds [TERMINATE]
- 6. None of these [ANCHOR; EXCLUSIVE]

BASE: ANY NON-TERMINATES

125. Do you or does anyone in your household work in either advertising or market research?

(Select all that apply)

[RANDOMIZE]

- 1. Yes, advertising [TERMINATE]
- 2. Yes, market research [TERMINATE]
- 3. No, neither of these [ANCHOR; EXCLUSIVE]

BASE: ANY NON-TERMINATES

130. Which of the following, if any, have you purchased <u>in the past 2 years</u>? (Select all that apply or "none of these.")

[RANDOMIZE]

- 1. An automobile
- 2. A house or apartment
- 3. A household pet
- 4. A vacation package

- 5. A mattress
- 6. None of these [ANCHOR; EXCLUSIVE]

BASE: ANY NON-TERMINATES

131. Which of the following, if any, are you likely to consider purchasing <u>in the next 2 years</u>?

(Select all that apply or "none of these.")

[REPEAT LIST FROM 130 IN SAME ORDER]

[MUST SELECT EITHER (130=MATTRESS AND/OR 131=MATTRESS TO CONTINUE; OTHERWISE, TERMINATE.]

BASE: 130=mattress AND (LINK 1 ONLY)

132. The following are descriptions of several types of mattresses. Please read these descriptions and refer to them in answering the question below.

Type of	<u>Description</u>
<u>Mattress</u>	
Spring/coil	A mattress that is filled with springs/coils for support
mattress	
Air mattress	A mattress that is filled with air for support rather than
(non-adjustable)	springs/coils. The mattress is permanent and cannot
	be adjusted.
Adjustable air	A mattress that is filled with air for support rather than
mattress	springs/coils. The mattress can be adjusted by remote
	control for comfort/firmness.
Inflatable air	A bed that can be inflated and deflated with an air
bed	pump and is portable. Often used for camping, travel,
	etc.
Memory foam	A mattress that is made of foam that adjusts to the
mattress	shape of the body

For each of the following types of mattresses (described above), please indicate whether or not you purchased or considered purchasing that type of mattress <u>in the past 2 years</u>?

[GRID COLUMNS - EXCLUSIVE: Considered, but did not purchase; Purchased; Did not consider or purchase – RANDOMIZE THE ORDER OF THE COLUMNS SO THEY APPEAR IN ONE OF THESE ORDERS: 1-2-3; 2-1-3; 3-1-2; 3-2-1]

- 1. Spring/coil mattress
- 2. Air mattress (non-adjustable)
- 3. Adjustable air mattress
- 4. Inflatable air bed

5. Memory foam mattress

BASE: 131=mattress AND (LINK 1 ONLY)

137. The following are descriptions of several types of mattresses. Please read these descriptions and refer to them in answering the question below.

[REPEAT TABLE IN SAME ORDER AS SHOWN IN Q132 IF ASKED, OTHERWISE RANDOMIZE]

Type of	Description
<u>Mattress</u>	
Spring/coil	A mattress that is filled with springs/coils for support
mattress	
Air mattress	A mattress that is filled with air for support rather than
(non-adjustable)	springs/coils. The mattress is permanent and cannot
	be adjusted.
Adjustable air	A mattress that is filled with air for support rather than
mattress	springs/coils. The mattress can be adjusted by remote
	control for comfort/firmness.
Inflatable air	A bed that can be inflated and deflated with an air
bed	pump and is portable. Often used for camping, travel,
	etc.
Memory foam	A mattress that is made of foam that adjusts to the
mattress	shape of the body

Which, if any, of the following types of mattresses (described above), would you consider purchasing in the <u>next</u> 2 years?

(Select all that apply or "none of these.")

[LIST IN SAME ORDER AS SHOWN IN ABOVE TABLE]

- 6. Spring/coil mattress
- 7. Air mattress (non-adjustable)
- 8. Adjustable air mattress
- 9. Inflatable air bed
- 10. Memory foam mattress
- 11. None of these [ANCHOR; EXCLUSIVE] [TERMINATE]

[IF LINK 1, MUST SELECT EITHER (132/3=CONSIDERED OR 132/3=PURCHASED) AND/OR (Q137=3(ADJUSTABLE AIR MATTRESS)) TO CONTINUE; OTHERWISE, TERMINATE.]

BASE: 132=CONSIDERED AN ADJUSTABLE AIR MATTRESS AND (LINK 1 ONLY)

140. You indicated that you have considered purchasing an <u>adjustable air mattress</u> in the past 2 years.

What is the <u>highest</u> amount of money you considered spending on an adjustable air mattress?

- 7. Less than \$399
- 8. \$400 \$699
- 9. \$700 \$999
- 10. \$1000 \$1299
- 11. \$1300 \$1599
- 12. \$1600 or more

BASE: 132=PURCHASED AN ADJUSTABLE AIR MATTRESS AND (LINK 1 ONLY)

141. You indicated that you purchased an <u>adjustable air mattress</u> in the past 2 years.

What is the <u>highest</u> amount of money you spent on an adjustable air mattress in the past 2 years?

[SAME LIST AS Q140]

BASE: 137=ADJUSTABLE AIR MATTRESS AND (LINK 1 ONLY)

142. You indicated that you would consider purchasing an <u>adjustable air mattress</u> in the next 2 years. Again, an adjustable air mattress is a mattress that is filled with air for support and can be adjusted by remote control for comfort/firmness.

What is the <u>highest</u> amount of money you would be likely to spend on an adjustable air mattress? [SAME LIST AS Q140]

BASE: 132/3=CONSIDERED OR 132/3=PURCHASED AND (LINK 1 ONLY)

143. You previously indicated that you have purchased or considered purchasing an adjustable air mattress in the past 2 years. Which of the following, if any, did you do to shop for or get information about mattresses? (Select all that apply or "none of the above.")

[RANDOMIZE]

- 1. Perform a GOOGLE internet search
- 2. Go directly to a mattress website for a company or brand you know
- 3. Call the manufacturer or product representative
- 4. Talk to a friend about a recommendation
- 5. Visit a store with a mattress showroom
- 6. None of the above [ANCHOR, EXCLUSIVE]

BASE: 137=3 (ADJUSTABLE AIR MATTRESS) AND (LINK 1 ONLY)

145. If you were considering purchasing an adjustable air mattress, which of the following, if any, would you be likely to do to shop for or get information about mattresses?

(Select all that apply or "none of the above.")

[REPEAT LIST IN SAME ORDER AS 143 IF ASKED; OTHERWISE RANDOMIZE]

- 1. Perform a GOOGLE internet search
- 2. Go directly to a mattress website for a company or brand you know
- 3. Call the manufacturer or product representative
- 4. Talk to a friend about a recommendation
- 5. Visit a store with a mattress showroom
- 6. None of the above [ANCHOR, EXCLUSIVE]

[IF LINK 1, MUST SELECT 143=1 (GOOGLE) AND/OR 145=1 (GOOGLE) TO CONTINUE; OTHERWISE, TERMINATE.]

BASE: ANY NON-TERMINATES AND (LINK 1 ONLY)

Q150 Which, if any, of the following are brands of mattress that have you heard of? (Select all that apply or "none of the above.")

[RANDOMIZE]

- 1. Sleep Number
- 2. Comfortaire
- 3. Tempur-Pedic
- 4. Beautyrest
- 5. Posturepedic
- 6. None of the above [ANCHOR; EXCLUSIVE] [TERMINATE]

[MUST SELECT 150-1 OR 150-2 TO CONTINUE]

[IF 150-1, ELIGIBLE FOR CELLS 1-4; IF 150-2, ELIGIBLE FOR CELLS 5-6; ASSIGN TO ELIGIBLE CELL WITH GREATEST NEED]

BASE: ANY NON-TERMINATES

160. Which of these age ranges includes your age?

[TERMINATE IF AGE RANGE DOES NOT MATCH AGE BASED ON BIRTH DATE]

- 1. 18-34
- 2. 35-44
- 3. 45-54
- 4. 55+

BASE: ANY NON-TERMINATES

165. Please select blue from the following list in order to continue with this survey.

[RANDOMIZE]

- 1. Red
- 2. Blue [must select to continue]
- 3. Yellow
- 4. Green

ASK IF: HAS NOT TERMINATED

- 170. You have qualified to take this survey. Before continuing, please carefully read these instructions:
- * Please take the survey in <u>one</u> session without interruption.
- * While taking the survey, please do not consult any other websites or other electronic or written materials.
- * Please answer all questions on your own without consulting any other person.
- * If you normally wear eye glasses or contact lenses when viewing a computer screen, please have them on for the survey.
 - 1. I understand and agree to the above instructions
 - 2. I do not understand or do not agree to the above instructions **[TERMINATE]**

LINK 1 MAIN SURVEY: CELLS 1-6 (ONLY QUALIFIED RESPONDENTS CONTINUE)
GOOGLE SEARCH STIMULI
BASE: ALL QUALIFIED RESPONDENTS Q210 For this survey, we would like you to imagine that you are interested in
purchasing a [<i>Cells 1-4, insert:</i> "Sleep Number"; <i>Cells 5-6, insert:</i> "Comfortaire"] brand adjustable air bed.
In addition, we would like you to imagine that you were going to perform a GOOGLE Search to shop for a [Cells 1-4, insert: "Sleep Number bed."; Cells 5-6, insert: "Comfortaire bed."]
PASE: ALL QUALIFIED RESPONDENTS Q212 This survey will take you through a GOOGLE search for the term
FOR CELL 1-2, insert: "Sleep Number bed" FOR CELL 3-4, insert: "Sleep Number" FOR CELL 5-6, insert: "Comfortaire"
First, we are going to show you a GOOGLE search page on which you will see that the search term [insert same term as above] has been entered. Then, you will be shown a page of real GOOGLE results from a search for this term.
You will then be asked some questions. If for any question you have no opinion or do not know, you can select that option at the bottom of the page. Please do not guess.
Please continue to move on with the survey.
BASE: ALL QUALIFIED RESPONDENTS Q215 Please imagine you were doing the following GOOGLE search.
[CELL 1-2 DISPLAY IMAGE #100A] [CELL 3-4 DISPLAY IMAGE #100B] [CELL 5-6 DISPLAY IMAGE #100C]

Please click the "continue" button to continue.

BASE	: ALL QUALIFIED RESPONDENTS
Q220	On the next screen you will see the page of GOOGLE results from a search for
	[<i>insert same term as in 212]</i> . Please look at the page as you ordinarily
	would when examining the results of a GOOGLE search.
	You can use the mouse to scroll up and down to examine the entire page.
	Although these are real results from a GOOGLE search for [insert same term as in 212], please note that the results are not linked to the internet so
	you will not be able to click on any links to go to any websites.
BASE	: ALL QUALIFIED RESPONDENTS
Q223	Please review this GOOGLE results page. When finished, click continue. Or if you could not view the GOOGLE results page, please indicate so.
	[CELL 1 DISPLAY IMAGE #201] [CELL 2 DISPLAY IMAGE #202] [CELL 3 DISPLAY IMAGE #203]
	[CELL 4 DISPLAY IMAGE #204]
	[CELL 5 DISPLAY IMAGE #205]
	[CELL 6 DISPLAY IMAGE #206]
	[PLACE A BORDER AROUND THE GOOGLE SEARCH IMAGE IN ORDER TO OFFSET IT FROM THE SURVEY.]
	1. Continue
	2. Cannot view GOOGLE results page [terminate do not count towards
	qualified completes]
END (OF SEARCH STIMULI LINK 1, MAIN SURVEY CONTINUES
DACE	ALL OHALIELD RECRONDENTS
	: ALL QUALIFIED RESPONDENTS
Q225	Which result or results, if any, do you think are websites that are <u>operated by</u> the
	company that makes [Cells 1-4, insert: "Sleep Number"; Cells 5-6,
	insert: "Comfortaire"] beds?
	Please click on all results that you think are websites operated by the company that makes [Cells 1-4, insert: "Sleep Number"; Cells 5-6, insert:
	"Comfortaire"] beds, if any. If you do not want to select any of these search results, please select the "No opinion/None of these" button at the bottom of the GOOGLE page.
	[CELL 1 DISPLAY IMAGE #201]
	[CELL 2 DISPLAY IMAGE #202]
	[CELL 3 DISPLAY IMAGE #203]
	[CELL 4 DISPLAY IMAGE #204]

[CELL 5 DISPLAY IMAGE #205] [CELL 6 DISPLAY IMAGE #206]

[Program image so that each GOOGLE search result is an actual item that the respondent can click on to select as an answer. Include a "No opinion/None of these" option at the bottom of the page. Multi-punch.]

BASE: ALL QUALIFIED RESPONDENTS

Q230 Aside from the results you just selected, which <u>other</u> result or results, if any, do you think are websites <u>where you could purchase</u> a ______ [*Cells 1-4, insert:* "Sleep Number"; *Cells 5-6, insert:* "Comfortaire"] bed?

The results you already selected in the previous question are highlighted and cannot be selected again here.

Please click any <u>other</u> GOOGLE search result or results you think are websites where you could purchase a _____[Cells 1-4, insert: "Sleep Number"; Cells 5-6, insert: "Comfortaire"] bed, if any. If you do not want to select any of these search results, please select the "No Opinion/None of these" button at the bottom of the GOOGLE page.

[PROGRAMMER: DISPLAY SAME IMAGE AS IN Q.225. HIGHLIGHT RESULTS THAT WERE SELECTED IN Q225 AND DO NOT ALLOW THESE RESULTS TO BE SELECTED HERE. ALLOW RESPONDENTS TO SELECT ANY OTHER RESULTS THAT WERE NOT SELECTED IN Q.225. Multi-punch. Include the "No Opinion/None of these" option at the bottom]

(PROGRAMMER: RANDOMIZE ORDER OF q.235 and 240)

BASE: ASK ONLY IF: (CELLS 1-2 AND 2ND RESULT AT TOP LEFT SELECTED IN Q.225; OR CELLS 3-6 AND 1st RESULT AT TOP LEFT SELECTED IN Q.225)

Q235 You answered that the result shown here is a website that is <u>operated by</u> the company that makes ______ [*Cells 1-4, insert: "Sleep Number"; Cells 5-6, insert: "Comfortaire"*] beds. What makes you think so? [*text box for answer*]

[CELL 1 DISPLAY IMAGE #301]

[CELL 2 DISPLAY IMAGE #302]

[CELL 3 DISPLAY IMAGE #303]

[CELL 4 DISPLAY IMAGE #304]

[CELL 5 DISPLAY IMAGE #305]

[CELL 6 DISPLAY IMAGE #306]

BASE: ASK ONLY IF: (CELLS 1-2 AND 2ND RESULT AT TOP LEFT SELECTED IN Q.230; OR CELLS 3-6 AND 1st RESULT AT TOP LEFT SELECTED IN Q.230)

Q245 You answered that the result shown here is a website <u>where you could purchase</u> a _____ [*Cells 1-4, insert:* "Sleep Number"; *Cells 5-6, insert:* "Comfortaire"] bed. What makes you think so? [*text box for answer*]

[CELL 1 DISPLAY IMAGE #301]

[CELL 2 DISPLAY IMAGE #302]

[CELL 3 DISPLAY IMAGE #303]

[CELL 4 DISPLAY IMAGE #304]

[CELL 5 DISPLAY IMAGE #305]

[CELL 6 DISPLAY IMAGE #306]

END OF SURVEY FOR CELLS 1 - 6 (LINK 1)

MAIN SURVEY: CELL 7 (LINK 2 – ONLY QUALIFIED RESPONDENTS CONTINUE)

[PROGRAMMER: Randomize whether respondent gets Version 1 or 2 in subsequent places where this is a variable.

410.

[IF VERSION 1 INSERT, "brand" FIRST & "common" SECOND IN THE FIRST & LAST SENTENCES. IF VERSION 2 INSERT, "common" FIRST & "brand" SECOND.]

This survey is about (*insert "brand"* or "common") names and (*insert "common"* or "brand") names in the context of mattresses. In a few moments you will be asked about a number of terms that you may or may not have heard before in connection with mattresses. But first, please read the next two screens about what we mean by a (*insert "brand"* or "common") name and what we mean by a (*insert "common"* or "brand") name.

420. [IF VERSION 1, SHOW Q420-1 FIRST. IF VERSION 2, SHOW Q420-2 FIRST.]

420-1

<u>Brand names</u> are names that companies use on their products to let consumers know <u>who</u> the product comes from. A brand name can be used by only <u>one</u> company to identify its products.

For example, LA-Z-BOY, IKEA, and POTTERY BARN are all <u>brand</u> names. These terms let a user know <u>who</u> the product comes from.

420-2

<u>Common names</u> are words used to identify or describe <u>what</u> a product is. A common name can be used by <u>more than one</u> company to identify the <u>type</u> of product they are selling.

For example, RECLINER, BOOK SHELF and ARMOIR are all <u>common</u> names. These words let the consumer know the <u>type</u> of product a company is selling.

430. [IF VERSION 1 INSERT, "brand" IN FIRST BLANK & "common" IN SECOND. IF VERSION 2, VICE VERSA]

Do you understand the difference between a _____ name and a ____ name?

- 1. Yes \rightarrow continue to 440
- 2. No \rightarrow terminate
- 3. Don't know → *terminate*
- 440. [IF VERSION 1, SHOW Q440-1 FIRST. IF VERSION 2, SHOW Q440-2 FIRST]
- 440-1 Which type of name would you say **SEARS** is?
 [MAKE "brand" TOP CHOICE IN VERSION 1 & SECOND CHOICE IN VERSION 2]
 - 1. Brand name \rightarrow continue
 - 2. Common name → terminate
 - 3. Don't know → *terminate*
- 440-2 Which type of name would you say **SIDE TABLE** is?
 [MAKE "brand" TOP CHOICE IN VERSION 1 & SECOND CHOICE IN VERSION 2]
 - 1. Brand name → *terminate*
 - 2. Common name → continue
 - 3. Don't know → terminate
- 450. **[IF VERSION 1,** "brand" COMES FIRST & "common" SECOND IN SECOND SENTENCE. IF VERSION 2, "common" COME FIRST & "brand" SECOND]

 You will now see a series of terms, one at a time, that you may or may not have seen used in connection with mattresses. For each one, please answer whether you think it is a (insert "brand" or "common") name or a (insert "common" or "brand") name. Or if you don't know, you may select that option.

460 – 1, 2, 3, 4, 5, 6, 7

[THERE ARE 4 ROTATIONS OF THE ORDER OF THE SEVEN TERMS RESPONDENTS WILL BE ASKED ABOUT. ONE-FOURTH OF RESPONDENTS SHOULD GET EACH OF THE FOLLOWING ROTATION/ORDERINGS.]

1	2	3	4
SLEEP NUMBER	FIRMNESS	MEMORY	FIRMNESS
	SETTING	FOAM	SETTING
MEMORY FOAM	BEAUTYRES	POSTUREPEDIC	BEAUTYREST
	Т		
POSTUREPEDIC	SLEEP	TEMPUR-PEDIC	ADJUSTABLE
	NUMBER		AIR BED
TEMPUR-PEDIC	MEMORY	ADJUSTABLE	MEMORY
	FOAM	AIR BED	FOAM
	TEMPUR-	SLEEP NUMBER	POSTUREPEDIC
BEAUTYREST	PEDIC		
FIRMNESS SETTING	POSTUREPE	BEAUTYREST	TEMPUR-PEDIC
	DIC		
	ADJUSTABLE	FIRMNESS	SLEEP NUMBER
ADJUSTABLE AIR BED	AIR BED	SETTING	

[ONE SCREEN AT A TIME, FOR EACH OF THE SEVEN TERMS, DISPLAY THE TERM IN UPPERCASE BOLD LETTERS ABOVE THE FOLLOWING QUESTION.]

Do you think this is a ...

[MAKE "brand" TOP CHOICE IN VERSION 1 & SECOND CHOICE IN VERSION 2)

- 1. Brand name
- 2. Common name
- 3. Don't know

END OF SURVEY FOR CELL 7

APPENDIX C MATERIALS REVIEWED/FEES CHARGED

In connection with designing the survey and preparing this report I reviewed the following materials:

- Sleep Number website
- Comfortaire website
- Personalcomfortbed website
- Second Amended Complaint
- Answer to Second Amended Complaint and Counterclaims
- Expert Report of Robert Reitter
- Expert Report of Sarah Butler
- Google results for searches for Sleep Number, Sleep Number Bed and Comfortaire
- Sealy Posturepedic website
- Tempur-pedic website
- Simmons Beauty Rest website

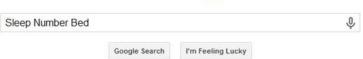
The fee charged by ORC International for the survey and report is \$98,000. Any additional time in connection with this matter will be billed at my ordinary rate of \$575 per hour.

APPENDIX D

CASE 0:12-cv-02899-DWF-TNL Doc. 236-50 Filed 08/21/15 Page 102 of 172







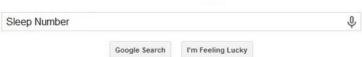
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New DualTemp™

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Ads related to sleep number bed

Web

Sleep Number® Beds 1 (877) 610 1916

www.sleepnumber.com/OfficialStore

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48-Mo Financing Available on Select Purchases. Learn More or Shop Now! \$50 Savings Card Offer Memory Foam Beds Why Sleep Number?

Find a Store Near You Innovative Bedding

Sleep 55% Off Number Beds (888) 690-4088

personalcomfortbed.com/vSleepNumber
Online Edition Bed Sale *Ends 6/10! Save \$2000 on set + \$500 Upgrades

Comfortaire Closeout Sale (888) 500-1700 www.comfortairedirect.com/AllBedsonSale

Save 30%. All 2012 Models Must Go Lowest Price Ever. Shop Beds Now!

Sleep Number Beds & Memory Foam Mattresses by Sleep Number

www.sleepnumber.com/eng/categories/sleep-number-beds 5+ items - Shop Sleep Number beds for mattresses and the only memory .

Classic Series - Performance Series - Innovation Series - Memory Foam Series

Sleep Number Beds and Mattress by Sleep Number

www.sleepnumber.com/ -Shop the Official Site for Sleep Number beds, mattresses & bedding. Sleep Number

mattresses are adjustable for ideal comfort and support. Sleep Number® Beds - Current Specials - Bedding Collection - Customer Service

Sleep Number Bed - QVC.com

www.qvc.com/Sleep-Number-Bed-For-the-Home.category.0101.html?... ▼
Results 1 - 48 of 52 - The Sleep Number(R) Bed has adjustable sides, creating a ... H201487 Sleep Number FL Limited Edition Modular... QVC Price: \$2,419.00 H201494 Sleep Number SK Limited Edition Adjustable QVC Price: \$4,839.00

Does anybody think a sleep number bed is really good? Is it durable ...

askville.amazon.com → Home → Home Improvement ▼
May 14, 2012 – I used to have a sleep number bed and always thought they were overrated and overpriced, it just felt like sleeping on a air mattress to me. This is ...

Shut Up + Run: Sleep Number Bed Review (i10 Model)

www.shutupandrun.net/2012/.../sleep-number-bed-review-i10-model.ht... ▼ Oct 27, 2012 – (Update: In April 2013 I did a follow up review of the Sleep Number Bed. You can find it HERE). Do you happen to remember a post I wrote

Select Comfort - Wikipedia, the free encyclopedia

en.wikipedia.org/wiki/Select_Comfort •
Select Comfort is a U.S.-based manufacturer that manufactures the Sleep Number bed as well as foundations and bedding accessories. The company is based .

Sleep Number bed negative customer testimonial... - YouTube



www.youtube.com/watch?v=g84xYDSKdO0 Jun 15, 2011 - Uploaded by Stefanie Phillips Customer reveals poor quality of Sleep Number bed. We hate this bed and Sleep Number won't take it back ...

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Sleep Number - Get great deals for Sleep Number on eBay!

popular.ebay.com→ Popular Items→ Home Living →
The Sleep Number bed, produced by Select Comfort, was introduced in 1987.

Furniture/Today has ranked it as the number-one bedding retailer in America for ...

Unbiased Sleep Number Bed (Select Comfort) Reviews 2013 ...

www.sleeplikethedead.com → Mattress Ratings → Airbed Reviews ▼
May 17, 2013 – Sleep Like The Dead reviews and rates the Sleep Number (Select Comfort) bed based on over 1630 actual consumer experiences. A detailed

Compare Sleep Number by SelectComfort to Dream Number Beds

www.dreamnumberbeds.com/compare-sleep-number-beds/ -

Compare SelectComfort's Sleep Number beds to ours and learn how you can save from \$300 all the way up to \$1500 on a comparable mattress from Dream ...

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www.sleepnumber.com/ -Shop the Official Site for Sleep Number beds, mattresses & bedding. Sleep Number mattresses are adjustable for ideal comfort and support.

Sleep Number® Beds - Current Specials - Bedding Collection - Customer Service

Sleep Number Bed - QVC.com

www.qvc.com/Sleep-Number-Bed-For-the-Home.category.0101.html?... ▼
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.com > Mattress Ratings > Airbed Rev Jan 27, 2014 - Sleep Like The Dead reviews and rates the Sleep Number (Select Comfort) bed based on over 1640 actual consumer experiences. A detailed

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Air-Pedic Innovative Bed

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Comfortaire Air Bed Mattresses Allow You To Select Your C ...



www.youtube.com/watch?v=HXlc9hpJaFc ▼
Feb 28, 2011 - Uploaded by ComfortaireExpert BroyhillofDenver.com explains why Comfortaire Air Beds are a great choice for anyone who is considering ...

Comfortaire Beds Explained - YouTube

www.youtube.com/user/ComfortaireExpert

Lael & Savannah have some big news to break to their family. They surprise them with the news durring a family photo at Christmas time. Lael set the timer and ...

Comfortaire Mattress Reviews & Ratings : Complaints, Com...



www.youtube.com/watch?v=UjLw-qCpRCI -Aug 27, 2011 - Uploaded by Nick Robinson http://sleeplikethedead.com/mattress-review-comfortair.html - I ▶ 5330 discuss our Comfortaire airbed research that _..

Comfortaire IC 1100 Air Bed Mattress Explained-Select Your...



www.youtube.com/watch?v=3MfQaJzmF0 * Mar 8, 2011 - Uploaded by ComfortaireExpert www.BroyhillofDenver.com explains the Comfortaire IC 1100 air > 3:56 bed mattress. The Comfortaire IC 1100 is ...

Comfort-Aire Air Conditioner Models BG-81J & BG-123J Re...



www.youtube.com/watch?v=7oJyu3pAiCU v Jun 2, 2013 - Uplloaded by Wanderer001 When the weather gets hot, or just before if you like to think ahead ▶12:55 your thoughts turn to that old Air Conditioner ***

Comfortaire IC 900 Air Bed Mattress Explained -Select Your ...



www.youtube.com/watch?v=cVlxr47yl_k -Mar 8, 2011 - Uploaded by ComfortaireExpert www.BroyhillofDenver.com explains the Comfortaire IC 900 air > 3:11 bed mattress. This model is one of the most ...

Sleep Comfort IC 800 Aire by Comfortaire Mattress Tutorial -...



www.youtube.com/watch?v=h9esinYrPm0 * Jun 19, 2012 - Uplloaded by sleep comfort Watch how Miles unzips the since to supply 1207 IC 800 Aire by Comfortaire® mattress by Sleep Watch how Miles unzips the side to expose the layers within the

Comfort-Aire BHD-651-G Dehumidifier Video | Sylvane - Yo...



www.youtube.com/watch?v=kt9 0itlwdA 3 Aug 8, 2011 - Uploaded by Sylvane Inc. http://ow.ly/cFmgp The Comfort-Aire BHD-651-G is one of the >3:11 highest capacity residential dehumidifiers on the ...

Mattress Minute - Comfortaire - YouTube



www.youtube.com/watch?v=rTfaWC3rfRg ▼
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Feb 28, 2011 - Uploaded by ComfortaireExpert BroyhillofDenver.com explains why Comfortaire Air Beds are a great choice for anyone who is considering ...

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www.youtube.com/watch?v=UjLw-qCpRCI -Aug 27, 2011 - Uploaded by Nick Robinson http://sleeplikethedead.com/mattress-review-comfortair.html - I ≥ 5330 discuss our Comfortaire airbed research that _..

Comfortaire IC 1100 Air Bed Mattress Explained-Select Your...



www.youtube.com/watch?v=3MfQaJzmF0 * Mar 8, 2011 - Uploaded by ComfortaireExpert www.BroyhillofDenver.com explains the Comfortaire IC 1100 air >3:56 bed mattress. The Comfortaire IC 1100 is ...

Comfort-Aire Air Conditioner Models BG-81J & BG-123J Re...



www.youtube.com/watch?v=7oJyu3pAiCU v Jun 2, 2013 - Uplicaded by Wanderer001 When the weather gets hot, or just before if you like to think ahead ▶12:55 your thoughts turn to that old Air Conditioner ***

Comfortaire IC 900 Air Bed Mattress Explained -Select Your ...



www.youtube.com/watch?v=cVlxr47yl_k -Mar 8, 2011 - Uploaded by ComfortaireExpert www.BroyhillofDenver.com explains the Comfortaire IC 900 air > 3:11 bed mattress. This model is one of the most ...

Sleep Comfort IC 800 Aire by Comfortaire Mattress Tutorial -...



www.youtube.com/watch?v=h9esinYrPm0 * Jun 19, 2012 - Uplicaded by sleep comfort Watch how Miles unzips the since to separate to the local lo Watch how Miles unzips the side to expose the layers within the

Comfort-Aire BHD-651-G Dehumidifier Video | Sylvane - Yo...



www.youtube.com/watch?v=kt9 0itlwdA * Aug 8, 2011 - Uploaded by Sylvane Inc. http://ow.ly/cFmgp The Comfort-Aire BHD-651-G is one of the >3:11 highest capacity residential dehumidifiers on the ...

Mattress Minute - Comfortaire - YouTube



www.youtube.com/watch?v=rTfaWC3rfRg ▼
Aug 11, 2010 - Uploaded by Mattresses & More This week Jonathan take's a cluser work and support mattresses from Comfortaire. The ... This week Jonathan take's a closer look at the IC series of air

Stav up to date on these results:

· Create an email alert for Comfortaire

Goooooooogle >

Ads (1)

Christeli vs Sleep Numbr® www.christeli.com/versusSleepNumber

Huge St. Patrick's Day Sale on Now! Compare Us & Save 30-50% + Free S/H

shopping.yahoo.com/ * Shop from 1000's of Online Stores. Save on Comfortaire Today!

Comfort Aire At Walmart

www.walmart.com/Air Mattresses Save On Furniture Air Mattresses. Free Shipping Site To Store.

Comfort Aire

www.consumersearch.com/Comfort+Aire * Find our Lowest Possible Pricel Comfort Aire for Sale

2014 Best Comfortaire

www.techtwirl.com/Salles Huge Selections - Compare & Save On Comfortaire Now!

Comfortaire Mattress

www.pronto.com/Comfortaire+Mattress > Compare. Shop & Save with Pronto. Deals on Comfortaire Mattress

Air Comfort

www.target.com/ * Get Air Comfort, Over 500,000 Items Ship Free with \$50 Purchase.

Comfort Aire Mattress

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Try In-Home "Risk Free"

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Free Ship, Pillow, No tax

Try In-Home "Risk Free" Compare Now (Save \$2000)

Comfort Air Beds On Sale

Online Edition Bed Sale "Ends 3/17 Compare Best (Price Warranty Value) www.personalcomfortbed.com/vComfortaire

Personal Comfort Bed. Com

www.personalcomfortbed.com

Online Edition Bed Sale *Ends 3/17 Compare Best (Price Warranty Value)

APPENDIX F

SCREENER

100.





110.

			3%
In what state do you live?	,		
State		Select one	
State		Select one	
State		Select one	Continue »

elect all that apply	
or a real estate company	
For a veterinarian's office or clinic	
For a travel agency	
For a company that makes or sells automobiles	
or a company that makes or sells mattresses / beds	
None of these	
For a company that makes or sells mattresses / beds	

125.

Do you or does anyone in your household wor Select all that apply	K III OLIIGI GAVOITISING OF THAINEE 163641011:
TEV	
Yes, advertising	
Yes, market research	
No, neither of these	
	()

Nhich of the following, if any, have you purchased in Select all that apply or "None of these"	n the past 2 years?
An automobile	
A vacation package	
A house or apartment	
A mattress	
A household pet	
None of these	

Select all that apply or "None of these"	
An automobile	
A vacation package	
A house or apartment	
A mattress	
A household pet	
None of these	

Type of Mattress	Description			
Spring / coil mattress	A mattress that is filled	d with springs /	coils for support	
Air mattress (non-adjustable)	A mattress that is filled mattress is permanent			ings / coils. The
Adjustable air mattress	A mattress that is filled mattress can be adjust	A mattress that is filled with air for support rather than springs / coils. The mattress can be adjusted by remote control for comfort / firmness.		
	A bed that can be inflated and deflated with an air pump and is portable.			
Inflatable air bed		Often used for camping, travel, etc.		
Memory foam mattress For each of the following types or considered purchasing that ty	Often used for campin A mattress that is mad of mattresses (described	le of foam that ac		(C)
Memory foam mattress For each of the following types or considered purchasing that ty	Often used for campin A mattress that is mad of mattresses (described	le of foam that ad d above), please st 2 years.	indicate whether or r	not you purchase
Memory foam mattress For each of the following types or considered purchasing that ty	Often used for campin A mattress that is mad of mattresses (described	le of foam that ac	indicate whether or r	not you purchase
Memory foam mattress For each of the following types or considered purchasing that types select one for each row Spring / coil mattress	Often used for campin A mattress that is mad of mattresses (described	le of foam that ad d above), please st 2 years.	indicate whether or r	not you purchase
Memory foam mattress For each of the following types or considered purchasing that typeseses select one for each row	Often used for campin A mattress that is mad of mattresses (described	le of foam that ad d above), please st 2 years.	indicate whether or r	not you purchase
Memory foam mattress For each of the following types or considered purchasing that types select one for each row Spring / coil mattress	Often used for campin A mattress that is mad of mattresses (described	le of foam that ad d above), please st 2 years.	indicate whether or r	not you purchase
Memory foam mattress For each of the following types or considered purchasing that type select one for each row Spring / coil mattress Air mattress (non-adjustable)	Often used for campin A mattress that is mad of mattresses (described	le of foam that ad d above), please st 2 years.	indicate whether or r	not you purchase

	36	
Type of Mattress	Description	
Spring / coil mattress	A mattress that is filled with springs / coi	s for support.
Air mattress (non-adjustable)	A mattress that is filled with air for suppo- mattress is permanent and cannot be adju	
Adjustable air mattress	A mattress that is filled with air for suppormattress can be adjusted by remote contr	
Inflatable air bed	A bed that can be inflated and deflated wi Often used for camping, travel, etc.	th an air pump and is portable.
[전문]		ata to the above of the body
Which, if any, of the following typext 2 years?	A mattress that is made of foam that adju	
Which, if any, of the following ty next 2 years? Select all that apply or "None of these"	pes of mattresses (described above), would	
Which, if any, of the following tynext 2 years? Select all that apply or "None of these" Spring / coil mattress	pes of mattresses (described above), would	
Which, if any, of the following tynext 2 years? Select all that apply or "None of these" Spring / coil mattress Air mattress (non-adjustable)	pes of mattresses (described above), would	
Which, if any, of the following tynext 2 years? Select all that apply or "None of these" Spring / coil mattress Air mattress (non-adjustable) Adjustable air mattress	pes of mattresses (described above), would	
Memory foam mattress Which, if any, of the following tynext 2 years? Select all that apply or "None of these" Spring / coil mattress Air mattress (non-adjustable) Adjustable air mattress Inflatable air bed Memory foam mattress	pes of mattresses (described above), would	

What is the <u>highest</u> amount of money you considered	in <u>adjustable air mattress</u> in the past 2 years. I spending on an adjustable air mattress?
Please select one	
Less than \$399	0
\$400 - \$699	0
\$700 - \$999	0
\$1000 - \$1299	0
\$1300 - \$1599	0
\$1600 or more	0

ou indicated that you purchased an <u>adjustable air no</u> What is the <u>highest</u> amount of money you spent on a	
Please select one	in adjustable all matarood in the paor 2 years.
ess than \$399	0
5400 - \$699	0
5700 - \$999	0
\$1000 - \$1299	0
\$1300 - \$1599	0
51600 or more	0

djustable air mattress is a mattress that is filled with omfort / firmness.	adjustable air mattress in the next 2 years. Again, an air for support and can be adjusted by remote control for
Vhat is the <u>highest</u> amount of money you would be lil	kely to spend on an adjustable air mattress?
ess than \$399	0
6400 - \$699	0
5700 - \$999	0
\$1000 - \$1299	0
1300 - \$1599	0
1600 or more	0

bast 2 years. Writer of the following, it arry, did you do to shop	p for or get information about mattresses?
Select all that apply or "None of the above".	
Call the manufacturer or product representative	
Go directly to a mattress website for a company or brand you know	
Talk to a friend about a recommendation	
Visit a store with a mattress showroom	
Perform a GOOGLE internet search	
None of the above	
erform a GOOGLE internet search	

)
)
7

Q150

Which, if any, of the following are brands of mattresses that you have heard of?		
Select all that apply or "None of the above"		
Sleep Number	U	
Comfortaire		
Tempur-Pedic		
Beautyrest		
Posturepedic		
None of the above		
	Continue »	

160.

Which of these age ranges includes your age? Please select one	
Under 18	0
18-34	0
35-44	0
45-54	0
55+	0

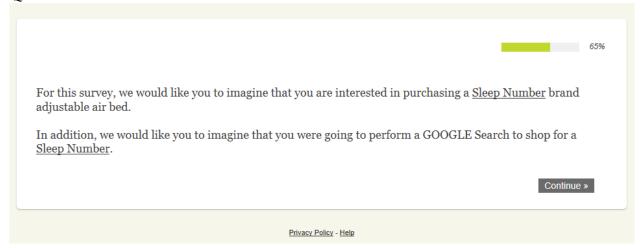
Please select blue from the following list in order Please select one	,
Blue	0
Yellow	0
Red	0
Green	0

You have qualified to take this survey. Before continu	uing, please carefully read these instructions:
• Please take the survey in one session without inter	rruption.
 While taking the survey, please do not consult any materials. 	other websites or other electronic or written
 Please answer all questions on your own without c 	consulting any other person.
Please select one	
understand and agree to the above instructions	0

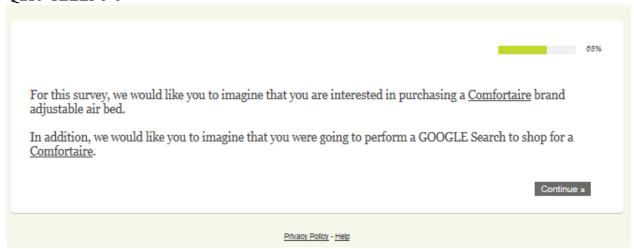
LINK 1 -- MAIN SURVEY: CELLS 1-6 (ONLY QUALIFIED RESPONDENTS CONTINUE)

GOOGLE SEARCH STIMULI

Q210 CELLS 1-4



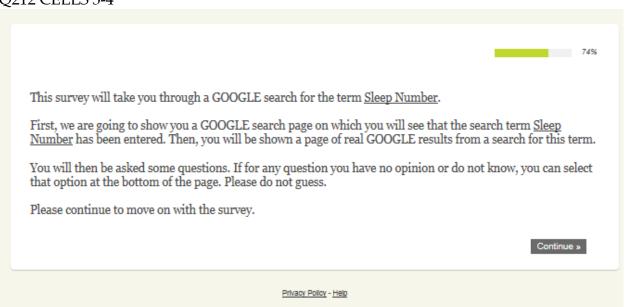
Q210 CELLS 5-6



Q212 CELLS 1-2



Q212 CELLS 3-4



Q212 CELLS 5-6

This survey will take you through a GOOGLE search for the term Comfortaire.

First, we are going to show you a GOOGLE search page on which you will see that the search term Comfortaire has been entered. Then, you will be shown a page of real GOOGLE results from a search for this term.

You will then be asked some questions. If for any question you have no opinion or do not know, you can select that option at the bottom of the page. Please do not guess.

Please continue to move on with the survey.

Q215 CELLS 1-2



Q215 CELLS 3-4



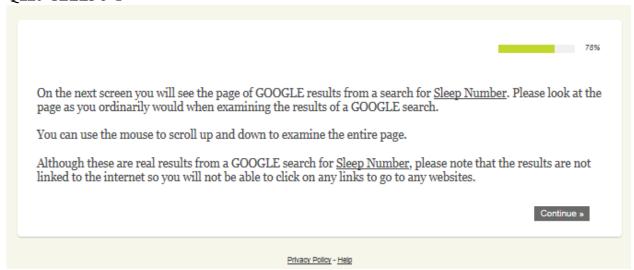
Q215 CELLS 5-6



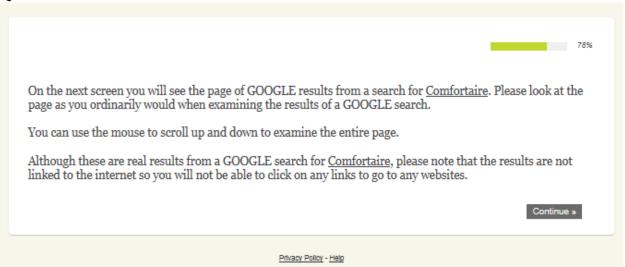
Q220 CELLS 1-2



Q220 CELLS 3-4



Q220 CELLS 5-6





Q223 CELL 1 Please



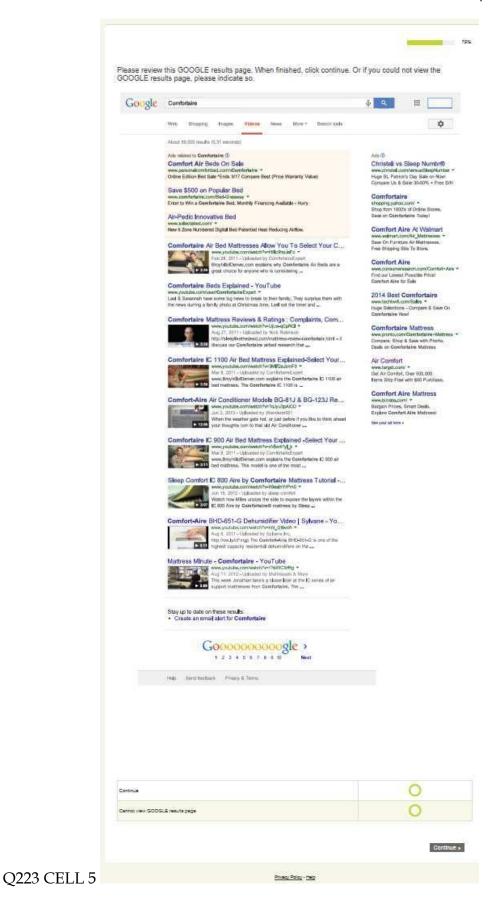
O223 CELL 2

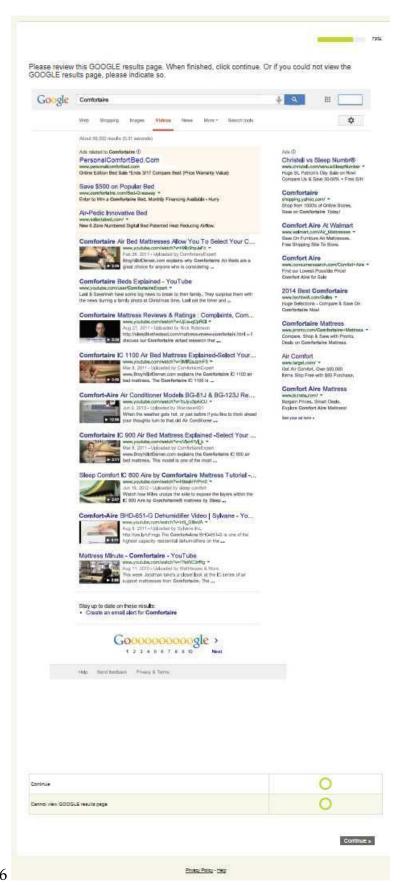


Q223 CELL 3

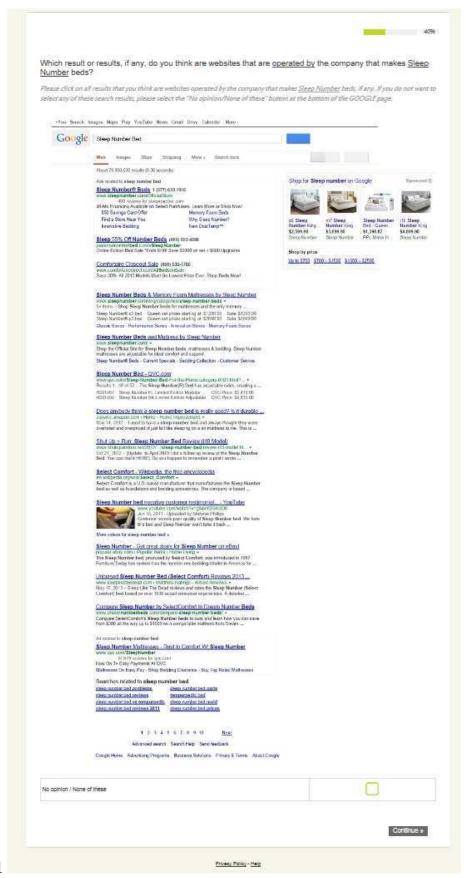


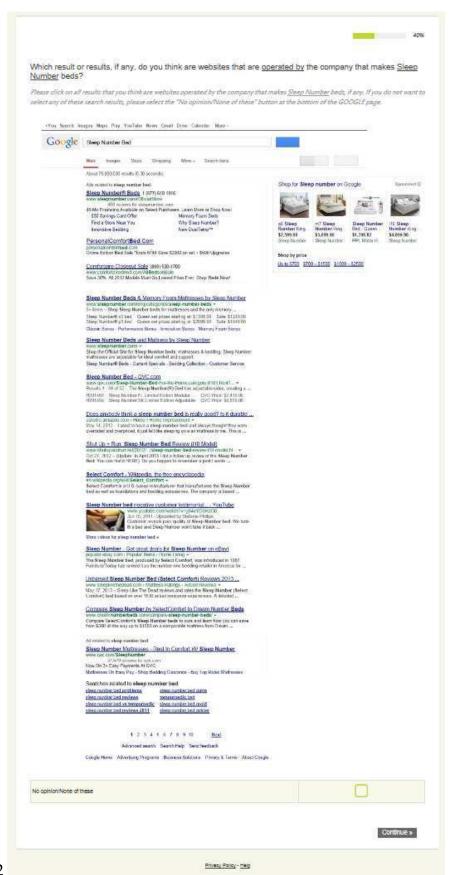
O223 CELL 4



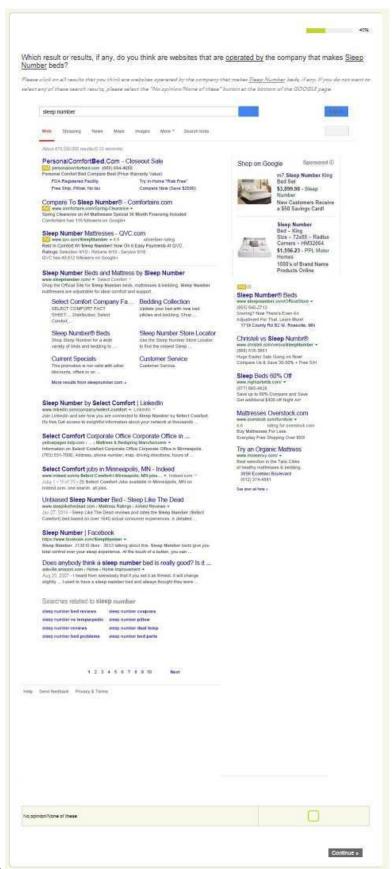


Q223 CELL 6

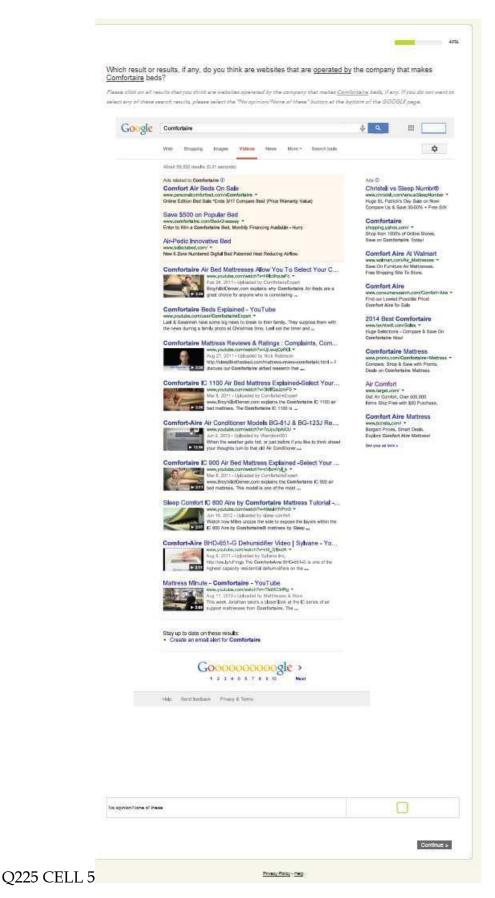


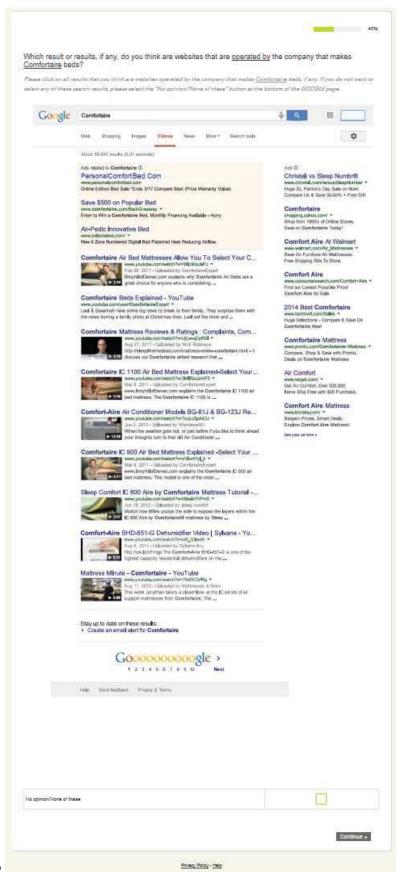






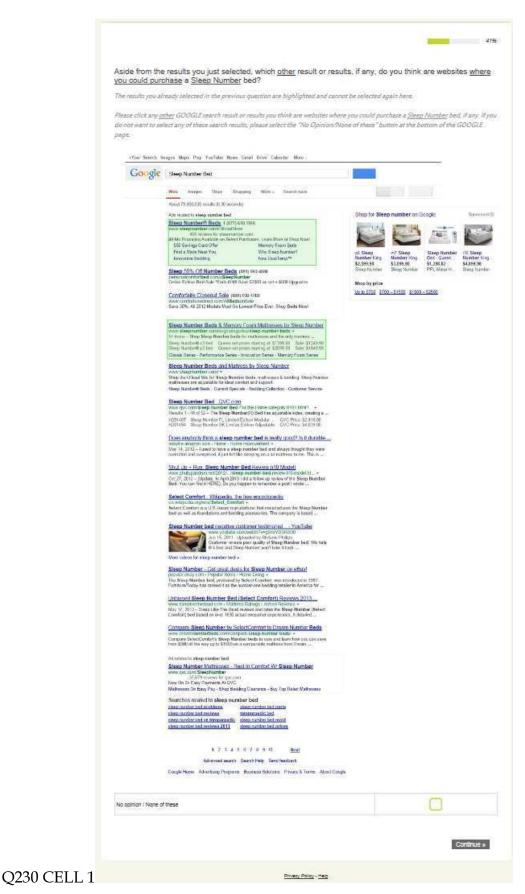
O225 CELL 4

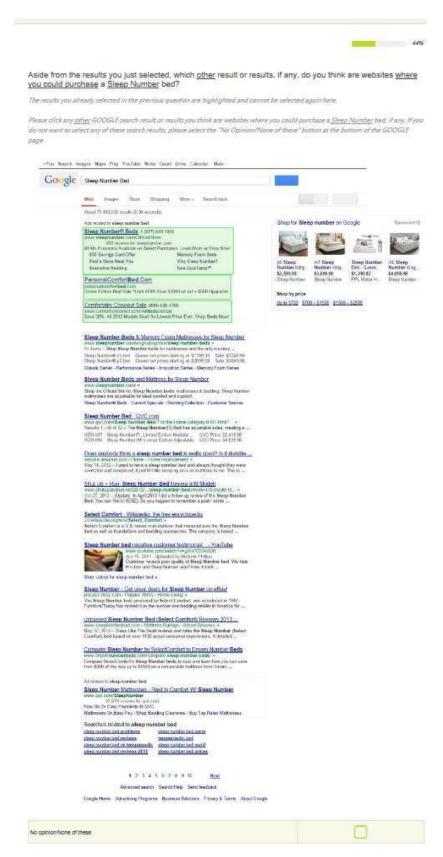


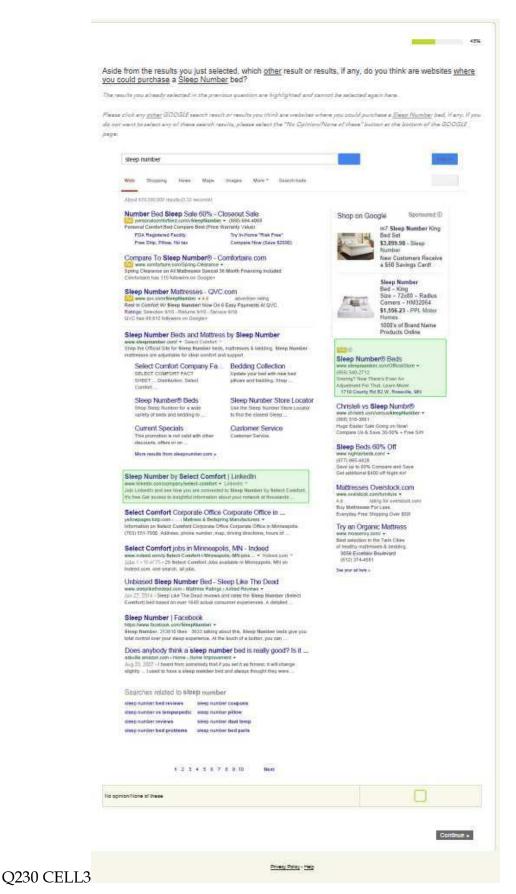


BASE: ALL QUALIFIED RESPONDENTS

Q230 -- GREEN HIGHLIGHTS INDICATE A SELECTION MADE IN THE PREVIOUS QUESTION.

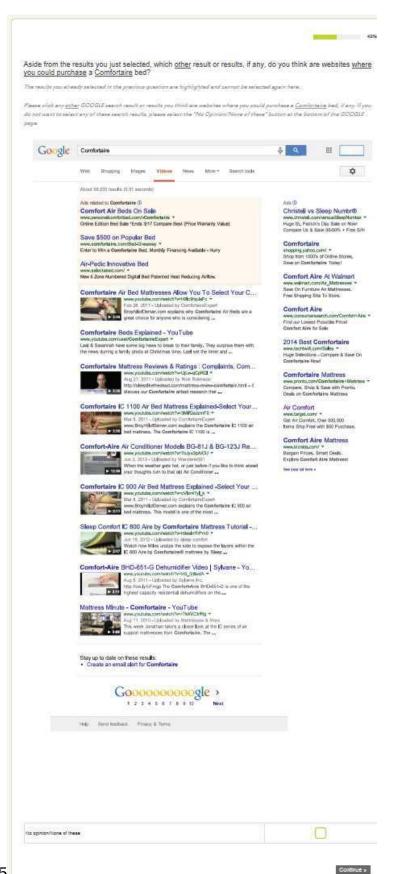


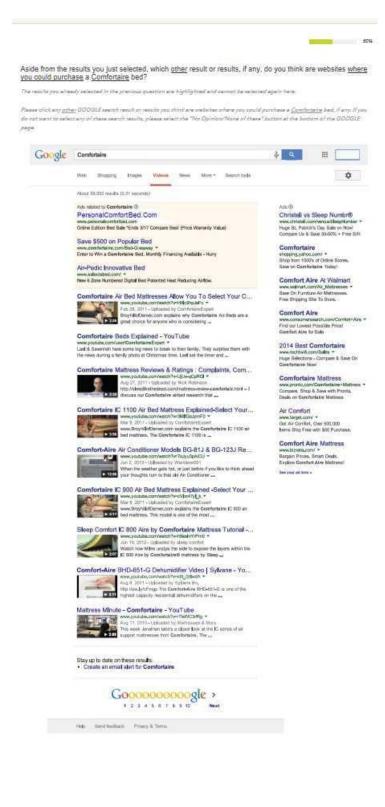




38







No opinion/None of these

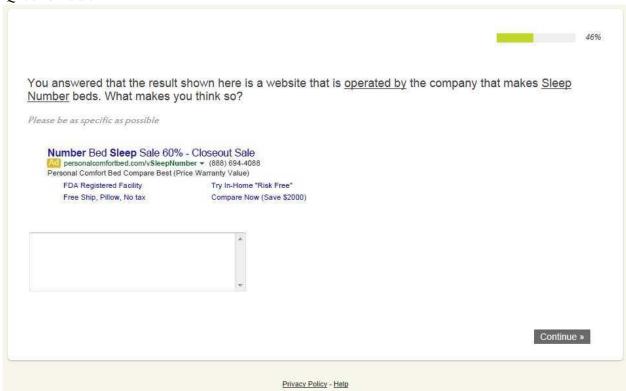
Q235 CELL 1

You answered that Number beds. Wha	the result show t makes you th	n here is a websi ink so?	te that is operated	by the company the	at makes <u>Sleep</u>
Please be as specific as p	ossible				
Sieep 55% Off N personalcomfortbe Online Edition Bed	lumber Beds (88 d.com/v\$leepNuml Sale *Ends 6/10I Sa	08) 690-4088 ber ye \$2000 an set + \$500	Upgrades		
		÷			

Q235 CELL 2

					55%
ou answered that the result lumber beds. What makes y	shown here is a website ou think so?	that is operated by	the company that	t makes <u>Sleep</u>	
llease be as specific as possible					
PersonalComfortBed.Com personalcomfortbed.com Online Edition Bed Sale *Ends 6/10! Sa	ve \$2000 on set + \$500 Upgrades				
	*				
				Continue	· »
	Privacy	Policy - Help			

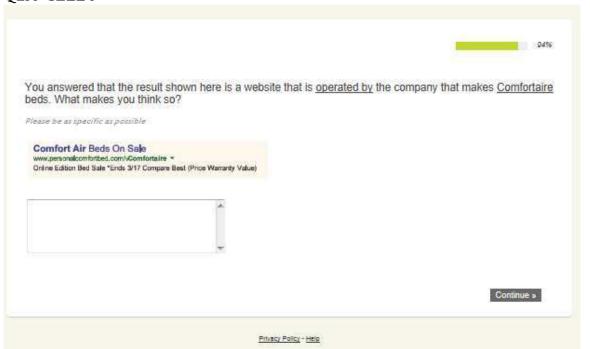
Q235 CELL 3



Q235 CELL 4

		489
You answered that the res Number beds. What make	t shown here is a website that is <u>operated by</u> the company that makes you think so?	Sleep
Please be as specific as possible		
PersonalComfortBed.Com personalcomfortbed.com (888) 69- Personal Comfort Bed Compare Best (1	088	
FDA Registered Facility	Try In-Home "Risk Free"	
Free Ship, Pillow, No tax	Compare Now (Save \$2000)	
	*	
		Continue »
		Softlinde #
	Privacy Policy - Help	

Q235 CELL 5



Q235 CELL 6

You answere beds. What n	d that the resu takes you thin	lt shown he k so?	ere is a webs	site that is ope	erated by the co	ompany that m	akes <u>Comfortair</u>
Please be as spe	cific as possible						
www.personalcomb	fort Bed. Com ribed.com Sale "Ends 3/17 Comp	ave Best (Price W	famonty Value)				
			*				
			*				
							Continue »

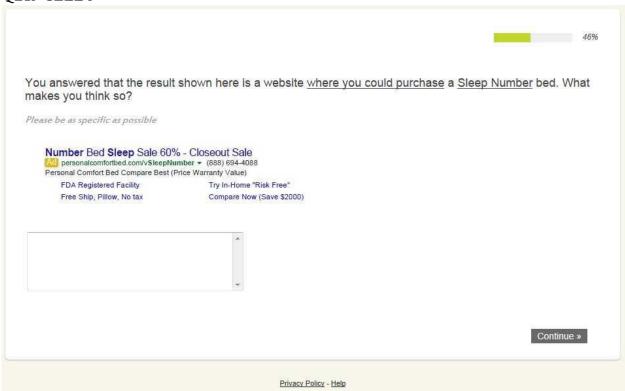
Q245 CELL 1

					83%
You answered that the r makes you think so?	esult shown here	is a website who	ere you could purch	nase a <u>Sleep Number</u>	bed. What
Please be as specific as possib	le				
Sleep 55% Off Numb personalcomfortbed.com Online Edition Bed Sale *	er Beds (888) 690-40 /vSleepNumber Ends 6/10! Save \$2000	on set + \$500 Upgrade	es		
	7				
)	Continue »
		Privacy Policy	- Hein		

Q245 CELL 2

					86%
You answered that the makes you think so?	esult shown here	is a website wh	ere you could purch	ase a Sleep Numbe	r bed. What
Please be as specific as possib	le				
PersonalComfortBed.Co personalcomfortbed.com Online Edition Bed Sale *Ends		r + \$500 Upgrades			
					Continue »
		Privacy Police	r. Hain		

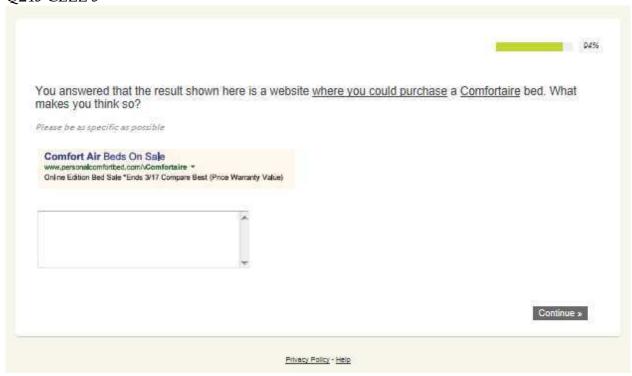
Q245 CELL 3



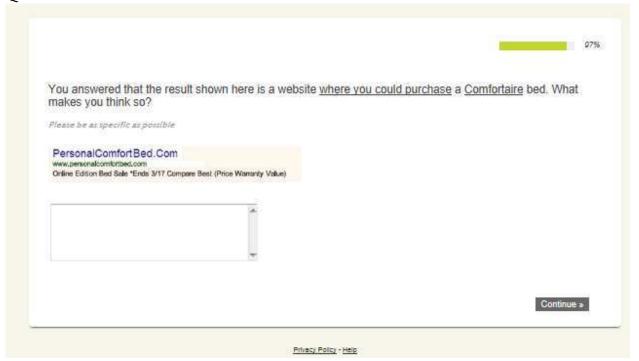
Q245 CELL 4

		48%
You answered that the res	t shown here is a website where you could purchase a Sleep Number bed. W	hat
Please be as specific as possible		
PersonalComfortBed.Com personalcomfortbed.com (888) 694 Personal Comfort Bed Compare Best (F	088	
FDA Registered Facility	Try In-Home "Risk Free"	
Free Ship, Pillow, No tax	Compare Now (Save \$2000)	
	Continue	»
	Privacy Policy - Help	

Q245 CELL 5



Q245 CELL 6



END OF SURVEY FOR CELLS 1 - 6 (LINK 1)

MAIN SURVEY: CELL 7 (LINK 2 – ONLY QUALIFIED RESPONDENTS CONTINUE)

410.

This survey is about *common* names and *brand* names in the context of mattresses. In a few moments you will be asked about a number of terms that you may or may not have heard before in connection with mattresses. But first, please read the next two screens about what we mean by a *common* name and what we mean by a *brand* name.

Continue >

420-1

Common names are words used to identify or describe what a product is. A common name can be used by more than one company to identify the type of product they are selling.

For example, RECLINER, BOOK SHELF and ARMOIRE are all common names. These words let the consumer know the type of product a company is selling.

Continue »

65%

Privacy Policy - Help

420-2

65%
<u>Brand names</u> are names that companies use on their products to let consumers know <u>who</u> the product comes from. A brand name can be used by only <u>one</u> company to identify its products.
For example, LA-Z-BOY, IKEA, and POTTERY BARN are all \underline{brand} names. These terms let a user know \underline{who} the product comes from.
Continue »
Prívacy Policy - Help

430.

	ame and a <i>brand</i> name?
select one	
	0
	0
now	0
now	0

440-1

Which type of name would you say <u>SIDE TABLE</u> is	\$?
Please select one	
Common name	0
Brand name	0
Don't know	0

440-2

Which type of name would you say <u>SEARS</u> is?	
Please select one	
Common name	0
Brand name	0
Don't know	0

450.

68%
You will now see a series of terms, one at a time, that you may or may not have seen used in connection with mattresses. For each one, please answer whether you think it is a <u>common</u> name or a <u>brand</u> name. Or if you don't know, you may select that option.
Continue »
Privacy Policy - Help

460



0
0
0
Continue »

SLEEP NUMBER	
Do you think this is a	
Please select one	
Common name	0
Brand name	0
Don't know	0



TEMPUR-PEDIC	
Do you think this is a	
Please select one	
Common name	0
Brand name	0
Don't know	0

POSTUREPEDIC	
Do you think this is a	
Please select one	
Common name	0
Brand name	0
Don't know	0

END OF SURVEY FOR CELL 7